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L A W A N D P O L I T Y,
A P P L I E D T O T H E
A M E R I C A N C O L O N I E S.

Written by GOVERNOR BERNARD,
at BOSTON,

In the Years 1763, 4, 5, 6, 7, and 8,

Now first published:

To which are added

The Resolutions of the Assembly of MASSACHUSETT'S BAY
against the Governor, his Answer thereto, and the
Order of the KING in Council thereon.

L O N D O N,

Printed for T. PAYNE, at the *Mews-Gate, St. Martin's*,
M D C C L X X I V.

[Price Two Shillings.]

SELECTED
LETTERS
ON THE
TRADE AND GOVERNMENT
OF
AMERICA:
AND THE
PRINCIPLES
OF
LAW AND POLICY
APPLIED TO THE
AMERICAN COLONIES.

Written by GOVERNOR BRINTON,
in BOSTON.
In the Year 1764, &c. &c. &c.
Now first published:
To which are added
The Position of the ALBANY of 1754, &c. &c.
against the Government of the Colonies, and the
Orders of the KING in Council thereon.
LONDON:
Printed for T. PAYNE, &c. &c.
MDCCLXXV.
The Second Edition.

P R E F A C E.

THE letters which are now submitted to the public, were written between the years 1763 and 1768 by Governor Bernard, who was at that time governor of *Massachusetts Bay*, and had a principal part in the proceedings which gave occasion for them. A little before that time an act of parliament was passed for raising money in *America* by a stamp duty, and bringing it into the *Exchequer* of *England*; without due consideration being had of the Practicability of such scheme, or of the Propriety of it if it was practicable. At this time *America* was just recovering herself from a war, in which she had borne a principal and burdensome part; and therefore was a very unfit subject for a present Taxation.

But what should have prevented a Taxation at that time was, that her governing powers were not fitted or able to carry into execution that, or any ordinance of *Parliament* that, was like to be disputed. There was no fixed idea of the Relation between *Great Britain* and *America*; not one of the Governments there had, what not one of them should have been without, a *Parliamentary*

mentary Constitution. And therefore it is not to be wondered at, that when they were called upon to pay money to the order of *Parliament*, they should answer, " We know not what is the Relation between you and us, that authorises you to raise money from us or our lands."

And, indeed, it may afford cause of wonder, that, in the course of 150 years (for so many it is at least since governments were first constituted in *America*), there never has been a *parliamentary* settlement of the *American* Governments, or any adjustment of the nature of the Subjection, and the Mode of subordination, that was due to, or expected from, the *Dependent* governments to the *Imperial* state. Before the Revolution, this neglect is to be accounted for; the rights of government were then not well understood even in *England*, and in *America* they were wholly misconceived. The lands acquired by the *English* there, and the government of them, were supposed to be the absolute property of the *King*, and were disposed of accordingly. The *Parliament* was scarce allowed to have any thing to do with them, and interfered very little in their government,

But, at the Revolution, when the rights of Government were well understood and formally settled; when the power of *Parliament* was greatly enlarged, and allowed to extend over all the Dependencies of the Crown of *Great Britain*, as well as its own Kingdom; at that time, and ever since, it has been an unfortunate omission

sion of policy; that the constitution of the Governments of *America* were not settled in *Parliament*, and the rights of the *Imperial* state over them acknowledged, with such Regulations and Limitations as the several natures of them, upon constitutional principles and good policy, should require; that we might not, at this time of day, when the *Empire* is so greatly enlarged, and is still increasing, be at a loss for the Principles upon which the Connexion of its subordinate Governments with the *Imperial* state may be best preserved, and the Union of the whole maintained and continued.

But no care has been taken of this important business; and *America* has been left to that miserable servitude where Law is uncertain and unknown. Instead of a certain constitutional Law; adapted to the nature of the Governments, established by the Sovereign or *Imperial* state, and recognised by the Dependent or subordinate states, *America* has been hitherto governed by temporary expedients; which have sometimes been allowed to have the force of laws, and have sometimes been refused it. In this state of things; it was impossible but the time would come when the authority of *Great Britain* over *America* would be brought into question. This day seems now to draw nigh; it might possibly have been put off for some time longer; but perhaps it is happy for *Great Britain* that it is not. She is now able to assert her own rights: whenever she ceases to be so; there is an end of her empire; a period no

less to be dreaded by the Colonies themselves, than by the Mother of them.

It was at the approach of this critical time, when the authority of *Parliament* over the colonies was to be controverted, and after the commencement of such controversy, that these letters were wrote. They were mostly, even those which were addressed to persons in high offices, merely speculative: and they cannot be misunderstood in any instance more than by being considered as Dictations. If there was any thing in which the writer of them could have desired to have dictated, it would have been upon the Necessity of giving the subject-matter of some of them as early a consideration as possible. For he cannot but think that too much time has been lost; and yet the work still remains to be done, but under greater difficulties than if it had been taken up sooner. For the Patience of the Government here, has tended to encrease the demands and expectations of the *Americans*, so as to make the regulating the Governments a much more difficult work than it would have been eight years ago: and at the same time the Necessity of it has encreased with its difficulties.

The writer of these letters has given them just as they were wrote, without any comments; and must desire that the reader will be attentive to the several dates of them, as much will depend on the precise times in which they were wrote. The politics of *America*, especially in the Province where he presided, have been
very

very fluctuating, though all tending to one end; so that what would have passed without giving offence ten years ago, would now be treated with the utmost resentment. A curious instance of which is just now afforded, when the Governor and Lieutenant Governor of *Massachusetts Bay* have been impeached for writing in private letters what was a common subject of conversation at the time they were wrote.

Another caution must be recommended, that it be not expected to find an uniformity of sentiments in these letters: length of time, and frequent change of circumstances, must occasion a variation of opinions: yet there has been little alteration of his with regard to fundamentals. The subject which occasioned the greatest fluctuation of his sentiments, is the expediency of allowing the *American* states Representatives in *Parliament*. This proposition greatly enlarges our idea of the Grandeur of the *British Empire*, and affords the most flattering prospect of its Stability and Duration. But we must admit that the Execution of it would probably be attended with great difficulties, if its theory should be approved; and therefore it may be considered only as a pleasing reverie.

One thing it is hoped the reader will take notice of, or at least that he will give credit for; which is, that these letters were dictated by a love of both Countries, and an earnest desire that they should be united in mutual affection as they are in mutual interest. This will depend

depend in a great measure upon the Connexion of the colonies with the *imperial* state. This can be maintained no otherwise than by a subordination of the former as *Dependent* states, to the latter as the *Imperial* sovereign. *Imperium in imperio* is a monster in politics which cannot subsist. The notions of policy which have been adopted in *America* since the stamp-act have a final tendency to separate the Colonies from the Mother Country ; an event which, as I have said before, can be desirable by neither ; as the consequences of it will probably be the Ruin of both.

But, though there can be no doubt of the Propriety and Necessity of a conciliatory Connexion between the *Imperial* state and the *American* Colonies, and it still remains to be done ; it is not so easy to determine in what manner, and by what ways and means, it will be best effected. This is a business of the utmost importance to the Welfare, I might say, to the very Being, of the *Empire* ; and requires that Policy, Justice, Firmness, and Moderation, should all be united upon this occasion. If in any instance Resentment should offer to interfere, let a consideration of the Relation between them mitigate it. But it will be best to look backward as little as possible, and provide only for the Correction of what is to come.

If these letters should afford any information that will contribute in the least to further this great work, the purpose of the writer will be fully answered. They
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were written hastily, *currente calamo*, and not with a view to publication; and therefore must be subject to many errors, as well literal as political; all which the critics are very welcome to, if they will do justice to his good *intention* and *well-meaning*. For he is not desirous of founding his reputation upon his writing or his politics; his utmost ambition, and for which he has laboured all his life-time, is to be esteemed an *honest man* and a *good citizen*.

LETTERS, &c.

LETTER I.

To the Earl of ———.

My Lord,

October 25, 1763.

YOUR Lordship signifies the King's pleasure, that I use my utmost endeavours to prevent the introduction of Foreign commodities contrary to the Acts of the 12 *Charles II*, the 15 *Charles II*, and the 7 and 8 of *William III*. I have the honour to inform your Lordship, that, ever since I have been in this Government, I have exerted the best of my powers to maintain a due obedience to the abovementioned Laws; and I can with pleasure add, that I believe they are no where better supported than they are in this Province.

When first I came to this Government, about three years ago, some of the Merchants of this town, provoked with the liberties allowed at *Porte* almost under their eye, and really injured by them, did endeavour to enforce the allowance of the same liberties within

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this

this Port, by divers means: but my resolution, and the steadiness of the Judges of the supreme Court, defeated this scheme; and they became content to wait till measures should be taken for putting all the Ports in *America* upon the same footing. Before this commotion, and since, the Merchants here, in general, have acted in such a manner as to entitle themselves to all proper favor.

I do not pretend that this Province is entirely free from the breach of these Laws; but only, that such breach, if discovered, is surely punished. There has been an indulgence time out of mind allowed in a trifling but necessary article; I mean, the permitting *Lisbon* Lemons, and Wine in small quantities, to pass as ships stores. I have always understood that this was well known in *England*, and allowed, as being no object of trade, or, if it was, no ways injurious to that of *Great Britain*. As for Lemons, in this climate, they are not only necessary to the comfort of life, but to health also; and a prohibition of them would be a great mortification to those who have been accustomed to the use of them. For my own part, I reckon them among the necessities of life, and believe they contribute much to the good health I enjoy here.

In regard to *Portugal* Wines, there seems to be no material distinction (except as *casus omisus*, in the letter of the Law) between Wines from the *Portuguese* Islands, and Wines from the *Portuguese* continent: nor would the least benefit accrue to *Great Britain*, from

permitting the one only, and prohibiting the other. Besides, there is sometimes a want of these little articles to help to make up a balance in the trade between this Country and *Portugal*, the latter affording no other return hither but Salt. And the Fish trade of *New England* is of too great consequence to *Old England*, to run any risque of checking it. *Spanish* Wines and Fruit, although at present not in much demand here, are within the same rule of reasoning, in regard to promoting the Fish trade. But it were to be wished that these were permitted by a positive law, rather than by an indulgence, however reasonable and approved.

The Wine generally used in this country heretofore, has been *Madeira*; but of late that has grown so extravagantly dear, that few people can afford it. The wines of the *Western Isles* are now in the general use of this country; but some gentlemen prefer *Portugal* wines. *French* wines can never be an article of trade here, as what comes to *America* is in general bad and very perishable; and when it is good, it comes as dear as *Madeira*, and is not near so much esteemed. And though there is now here, under prosecution, a small vessel of 130 tuns, laden with *French* wines, said to be bound from *Bordeaux* to *Eustatia*; yet this will not conclude for the frequent use of *French* wines here. For though this vessel were intended to be unladen on this coast, she would be a singular instance for some years past, and her cargo would sup-

ply the demand for *French* wine in *New England* for two or three years.

I have, according to your Lordship's order, imparted to your Lordship what alleviation of the Laws before-mentioned is wanting to the exigencies of this country; at the same time bespeaking your Lordship's favor, that this intimation may not be understood to contain an admission that I myself have been knowingly concerned in, or consenting to, the aforesaid indulgence.

I am, &c.

L E T T E R II.

To the Lords Commissioners for Trade and Plantations.

My Lords,

Dec. 26, 1763.

I AM honoured with your Lordships orders, dated *October 11*. There has been no neglect, that I know of, in executing the Laws of Trade within this Province as far as has been practicable: the only indulgences that have been used here, I presume, have been long well known to your Lordships. That of allowing Wines and Fruits, in small parcels, to be returned as ships stores by the vessels carrying Fish to *Portugal*, &c. your Lordships have been acquainted with before

before now. That this indulgence is not hurtful to *Great Britain* in the first instance, and greatly advantageous in the end, is to me very certain.

The other well-known indulgence, is in the Act called the Molasses Act, which has, I presume, never been duly executed; although, at the same time, I must, for my own defence, say that I never knew an instance of the breach of it. The Custom-house officers in this Province are, in my opinion, good and faithful officers, and have in this case done their best; that is, they have got as much money on account of this duty as they could, and have brought all that they have received to the account of the King. In the last quarter's accompt of the Collector of this Port, I observed the duties upon this Act amount to between six or seven hundred pounds sterling; and I am told, that the Collector of *Salem's* accompt, which I have not seen, may amount to as much. I therefore conclude, as I can judge by conjecture only, that this Act is not strictly executed; for, if it had been, I cannot think that it could have produced so great a sum in any one quarter. And yet, I believe, if the duty was lowered, so as not to discourage the importation of the goods subject to it, nor make it worth the while to evade the payment of it, it would produce a much greater sum.

This Act has been a perpetual stumbling-block to the Custom-house officers; and it will be most agreeable to them to have it in any ways removed. The question

question seems to be, whether it should be an Act of Prohibition, or an Act of Revenue. It was originally, I believe, designed for the former; and if it should be thought adviseable to continue it as such, it will want no more than to be fully executed. But if it is meant to be an Act of Revenue, the best means to make it most effectual, that is, to raise the greatest revenue by it, will be to lower the duties in such a proportion as will secure the entire collection of them, and encourage the importation of the goods on which they will be laid. Perhaps a resolution may be formed already, or at least before this will come to your Lordships, to continue this Act, and enforce the execution of it: in such case it may be thought imprudent in me, to urge or even offer my opinion on this subject. But, my Lords, in the sincerity of my heart, and in the warmth of my wishes that the welfare of this country may be made advantageous to its mother country, I must inform your Lordships, that it seems to me necessary to encourage a trade between *North America* and the *Foreign Plantations*, under proper restrictions; without which, the present advantages arising to *Great Britain* from the trade of *North America*, I fear, cannot be preserved; much less may an encrease of them be expected.

I founded this opinion some time ago upon a plain and simple argument, the fallacy of which I have never been able to discover; and the truth of it seems to be confirmed by frequent observation. It is this: at the time of making the Molasses Act, now thirty
 years

years ago, it was asserted by the *West Indians*, that, as the *British West Indian Plantations* were capable of taking off all the produce of *North America*, the sending such produce to *Foreign Plantations* ought to be discouraged. To this the *North Americans* then answered, by denying (I believe with greater truth) that the *British West Indian Plantations* were capable of taking off all the produce of *North America* fit for the *West Indian* markets: I will suppose however that the balance was equal. Since that time, *North America* has encreased to above double; the *British West Indies* remain as they were. What is to become of half the produce of *North America*, if it is not suffered to be carried to *Foreign* markets upon practicable terms of trade? And how can *Great Britain* expect that her exports to *North America* will not keep an equal proportion with the exports of *North America* to their markets, wherever they lie?

It is, in my opinion, a false state of the question, to consider it as a contest between *The West Indies* and *North America*: it is really a contest between *The West Indies* and *Great Britain*; for in the latter will the profit and loss arising from the result of this question determine. The trade of *North America* is really the trade of *Great Britain* (prohibited *European* goods excepted); the profit and loss, the increase and decrease of which, finally, come home to the latter. *America* will suffer for a time only, by being disabled to import from *Great Britain* what her real and imaginary wants

wants demand. But her very necessity will relieve her, by both obliging her and enabling her to resort to her internal powers for what she will not be able to import from abroad. But the loss of *Great Britain* will be irretrievable. If this should be exemplified in this Province, it will, probably, for the first instance, be in the decrease of the Fishery; which, in the opinion of the most knowing men here, will certainly be the consequence of a prohibition of Foreign Molasses and Sugar.

I have been carried on further in this subject than I intended, for which I pray your Lordships indulgence, as I mean rather to state the case to your Lordships, than determine upon it. I am all this while arguing against my own interest: Laws that are like to be productive of Forfeitures ought to be acceptable to Governors. But, for my own part, I should be glad, at the expence of all such Profits, to see the Laws of Trade in *America* so regulated, as to be effectually executed, cheerfully submitted to, and most conducive to the advantage of *Great Britain*.

I am, &c.

LETTER

LETTER III.

To ——— Esquire.

Dear Sir,

Jan. 7, 1764.

THE publication of orders for the strict execution of the Molasses Act has caused a greater alarm in this country than the taking of *Fort William Henry* did in 1757. Petitions from the trading towns have been presented to the General Court; and a large Committee of both Houses is sitting every day to prepare instructions for their Agent. In the mean time, the Merchants say, There is an end of the trade in this Province; that it is sacrificed to the *West Indian* Planters; that it is time for every prudent man to get out of debt with *Great Britain* as fast as he can, and betake himself to husbandry, and be content with such coarse manufactures as this country will produce. This is now the common talk wherever one goes; and it is certain, that whatever detriment the continuation and strict execution of the Molasses Act will bring to the trade of *North America* (and surely more or less it will bring), it will soon come home to *Great Britain*; and then the *British* Merchants will see their imprudence in sitting still as unconcerned spectators, whilst the *West Indians* are confining the trade of this extensive and improving country within their own narrow and unextensible circle. For nothing is more plain, than that if the ex-

ports of *North America* are diminished (be it by one fourth, one third, or one half), her imports from *Great Britain* must be lessened in the same proportion. To apply this to a fact: last year were imported into this Province 15,000 hogheads of molasses, all of which, except less than 500, came from *Ports* which are now *Foreign*. The value of this, at 1s. 4d. a gallon (which is a middling price as sold out of merchants storehouses) is 100,000 pounds sterling; to purchase which, fish and lumber of near the same value must be sent from hence. Now suppose this trade prohibited (for a duty of 50 per cent. amounts to a prohibition), the consequences must be, that this Province must import 100,000 pounds less of *British* goods; and there is an entire loss of 100,000 pounds (the fish and lumber coming from an inexhaustible store) worth of goods to the general *British* Empire, besides the loss of trade and decrease of shipping; and this annual, in one Province, and in one article of trade only. Is there not therefore just cause of alarm from the apprehensions of the probability or possibility of such consequences? If it should be proposed to try the experiment for two or three years only; first let it be considered, that the experiment itself, if it turns out as is expected, will cost *Great Britain* many hundred thousand pounds. But this is not all: if, after the experiment has been made, it should be thought proper to restore the *North Americans* to the freedom of this trade, is it certain that, after an interruption of

two or three years, it can be recovered again? Is it not probable, that in the interim the *Foreign Plantations* may get supplied from other parts (*viz.* low-priced fish from the *French* fisheries, lumber from the East side of the *Mississippi*); and when the *North Americans* have leave again to resort to the *Foreign Ports*, they may find them shut against them? When the sale of *French Molasses* to the *North Americans* is prohibited, may it not be the cause of procuring the *French* planters liberty to distil it themselves? And if this valuable trade, which takes from us what no other markets will receive, and returns to us what ultimately centers in *Great Britain*, should, by making experiments, be destroyed; would it not be the case of the man whose curiosity (or expectation of extraordinary present gain) killed the goose who laid him golden eggs? Surely it is not an idle or groundless fear which makes thinking people dread the consequences of continuing and enforcing this Act.

I have wrote to the Lords of Trade upon this subject with great sincerity, though perhaps with more earnestness than may be thought proper. I have confined myself to one argument only, the necessity of allowing and encouraging a trade between *North America* and the *Foreign Plantations*, if it is intended that the trade from *Great Britain* to *North America* should be kept up even in its present state, which in my simple reason is conclusive for the affirmative.

I am, &c.

LETTER IV,

To the Lords Commissioners for Trade and Plantations,

My Lords,

Nov. 10, 1764.

I AM desired by the Council and the House of Representatives of this Province, to lay before his Majesty's Ministers a copy of a Petition which they have prepared, to be presented to the House of Commons; and to beseech the favor of their great influence in behalf of their Petition. I accordingly inclose a copy of the Petition; together with a copy of the Address, by which I am desired to transmit it. I have so fully expressed my sentiments on these subjects in former letters to your Lordships, that, if I was to make a fresh representation, it must chiefly consist of a repetition of what I have before wrote.

This last session was held solely to give the two Houses an opportunity to send fresh instructions to their Agent. Previously to their meeting, there were some pains taken by some obscure news-paper writers to inflame them: but their endeavours did not succeed; duty, prudence, and moderation, prevailed in a manner unexpected: so that there scarce ever was a more unanimous and quiet session.

I am, &c.

LETTER

LETTER V.

To the Earl of _____.

My Lord,

Nov. 10, 1764.

I HEREBY enclose to your Lordship a copy of a petition of the Council and the House of Representatives to the House of Commons of *Great Britain*; which I am desired by the said Council and House of Representatives to lay before his Majesty's Ministers, and beseech the favor of their great influence in behalf of the Petition. I am also desired myself to represent the subject-matter of their Petition; and it is my duty to certify my opinion upon such extraordinary and interesting occasions. I shall therefore, with great truth and sincerity, acquaint your Lordship with my sentiments, although I shall be obliged to repeat a good deal of what I have already wrote to your Lordship and the Lords of Trade upon these subjects.

The heads of the Petition to the House of Commons are these : 1. That the duties upon molasses are such as will discourage the importation of it, and thereby hurt the *American* fishery. 2. That the restrictions laid upon the exportation of lumber will hurt the trade of *America*, without any advantage to *Great Britain*. 3. That the new-erected General Court of Admiralty will, by the extension of its jurisdiction, be very injurious to the defendants in that Court. 4. That the Provincial Courts

of

of Admiralty are injurious to the liberty of the subject, by determining upon their property without a Jury.

5. That the sending home to *England* the produce of the duties, and of the taxes proposed, must take from the *Americans* the means of trade, and render it impracticable for them to make remittances to *Great Britain*. 6. That the trade of *America* is really the trade of *Great Britain*; and that the opening and encouraging it, is the most effectual way for *Great Britain* to draw money from *America*.

1. I have heretofore considered foreign Molasses as a fund for raising money; and as such I have been of opinion that a duty of one penny halfpenny *per* gallon would raise more money than either a larger or smaller duty. But yet I am not so positive as to assert, that two pence *per* gallon may not raise as much, or possibly more; but I am persuaded, that beyond that, the higher the duty, the less will be the revenue. In regard to the effect it will have upon our fishery, or any other ill effects, I don't care to prophesy evil; but in truth, I think that it is too dangerous an experiment to be tried; because the evil consequences, if any should follow, would probably be irretrievable. Another argument in favor of the reduction of the duty to 2*d.* which will weigh much with your Lordship, is, that it will be a very popular measure; inasmuch that I believe there is not a friend to the present government residing in *North America*, that does not wish that such a reduction may be made agreeable to his Majesty's Councils.

2. As to lumber, it seems to me that there is wanting a distinction of the different sorts of it; particularly between that which is used in ship-building, and that which is used in house-building. To regard the exportation of lumber as a trade, it is much for the interest of *Great Britain* that it should be extended as much as possible; as the profit of it will finally come to her. But it may be said, that such profits as arise from furnishing our rivals with naval stores, would be a real detriment to *Great Britain*. Then it may be said on the other side, separate what are naval stores from the list of lumber, and let the other articles pass. Suppose, for instance, *Portugal* and *Spain* (and *France* too if it pleases) would take all their pipe and hoghead staves from *America*, would not *Great Britain* finally reap all the advantages by the increase of the *American* remittances? In regard to *Ireland* being excluded having lumber from *America*, it is hoped that it is a mistake, and as such will be rectified: for it certainly will create a great inconvenience in the trade between *America* and that kingdom. In regard to lumber, two things should be considered: 1. That it is all clear gain, proceeding from an inexhaustible fund; and what is not cut, is lost to the community: 2. That the vent of it encourages the clearing of lands, and is the sole support of thousands of useful subjects and great slaves, the first settlers of wild lands; and therefore the sale of it should be extended as far as well may be.

3. There

3. There is certainly an obvious occasion for a general Court of Admiralty over all *America*, or very large districts of it ; which is this ! whenever the parties of a cause, and the goods lye in different divisions, the jurisdiction is lame. But then it should seem, that such general Court should be held as near the middle of its jurisdiction, as well may be. I therefore believe, that the situation of this Court has a good deal contributed to the alarm it has occasioned : for, to be sure, the inconveniences of persons being obliged to attend a court at great distances, which would be unavoidable if the Court was held in the middle of its jurisdiction, must be greatly magnified by the Court's being held at the extremity of it ; especially where the assistance of able Lawyers is not to be obtained in the manner in which it is to be had in the great cities of the Old Provinces. However, as I know not the reasons why this Court is established at *Halifax* preferable to all other parts of *America*, I can give no opinion of my own upon it, no more than I can judge of the inconveniencies that may arise therefrom, until which become realized.

4. The Court of Admiralty in *America*, taking cognizance of, and determining upon, breaches of the law of trade, is now of eighty years standing, and had its origin in an Act of Parliament. The reason for putting these causes into a course of trial, without a jury, undoubtedly arose from an apprehension that the juries in these causes were not to be trusted. The force of this
reason

reason may have abated, but I cannot think that it is wholly destroyed: no candid man, I believe, will take upon him to declare, that at this time an *American* Jury is impartial and indifferent enough, to determine equally upon frauds of trade. A comparison with *English* Juries will not hold; the discriminations are obvious. Nevertheless, the objection to the Judge of the Admiralty being paid by the poundage of the condemnation-money is very forcible; for thereby it is his interest to condemn, rather than to acquit. The present Judge for this Province is, I believe, as uncorrupt as any one the King has; and he has frequently complained to me of his office being supported by such means. About three months ago, I mentioned it to the Lords of Trade; and then recommended, that the Judges and Officers of the Admiralty might have salaries, instead of fees arising from condemnations.

5. The produce of the duties and internal taxes, imposed on *North America*, are to be remitted to the King's Exchequer at *London*, and from thence to be disposed to the services to which they are appropriated. And this method, it is said, will drain the *American* Colonies of all their species so effectually, that their trade must be destroyed for want of the means to carry it on; and a general bankruptcy must take place, before the money arising from these revenues can be returned back to it, though it should in time be restored without any diminution. I do not mean to adopt this objection in the strong terms in which I have stated it; but yet, I must

D say,

say, that there is no one of the new regulations that gives me such apprehensions of inconvenient consequences as this does. I suppose it is not intended or desired, that *America* shall raise more than what is necessary for her own support and defence; and that it is intended, that what is raised from her people shall be expended among them. In this sense, it is easy to conceive that the country may bear considerable duties and taxes, provided the money so raised is presently after issued again, and the circulation of it is very little interrupted. But the case will be very much altered, if the money raised, by passing through many offices, and being subject to several accompts, is to be dead to the people for a long time. In such a case, a smaller tax may be much more detrimental to the people than a larger tax, where the money is quickly circulated. If this money is to be sent to the King's Exchequer, and from thence to be sent again to *America*, it will not be much less than three years from the time of its being collected, to the time of its being restored to circulation; besides, that the expence of its travelling charges is to be added to the loss of the use of the money. *America* has not a fund to bear this; which, according to plain arithmetic, will require a dead stock of three years value of the annual income of the revenue; and if it could bear it, by interest of money, and charge of double remittances, &c. it would suffer a loss of 25 or 30 per cent.

Those Colonies, whose common currency is paper, are obliged to keep a sufficient quantity of specie for
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the purpose of trade; and this is frequently run so near, that, upon an occasional scarcity of money, trade is almost at a stand. I remember about four or five years ago, the remittances of the Government having been by some means delayed, the country could not supply the deficiency: and it was for some time apprehended, that the operations of the campaign would be defeated. This, if I remember right, was got over by the Government of *New York* striking 50,000 pounds in sizeable bills, and lending them to the General. If therefore an accidental delay of the remittances from *England* could occasion such an embarrassment, and oblige the army to take paper in payment, how can it be expected that the same country should be able to remit large sums of specie to the *English* Treasury?

The Province of *Massachusetts Bay* is the only one of the old Colonies, that I know of, that enjoys a specie currency. This reflects great honour upon the Province itself, as it is a great instance of their prudence, who took hold of a singular opportunity to destroy their paper money, which other Colonies, who had it equally in their power, neglected. It also affords an example to the rest of *America*, to endeavour at the same acquisition; and is an evidence of its practicability. But I fear that if the great sums, which are expected to be raised in *America*, are to be transported to *Great Britain*, there will soon be an end of the specie currency of the *Massachusetts*; which will be followed

by a total discouragement for other provinces to attempt the same in the future. In which case, perpetual paper money, the very negative power of riches, will be the portion of *America*.

6. Trade is a science, which I have had little opportunity to study, and therefore it would be a presumption in me to dictate upon it. However, as I have caught a few flying notions of it, I will venture to state some principles which have occurred to me, with the consequences which follow them. The two great objects of *Great Britain*, in regard to the *American* trade, must be, To oblige her *American* subjects to take from *Great Britain* only, all the manufactures and *European* goods which she can supply them with: 2. To regulate the foreign trade of the *Americans*, so that the profits thereof may finally center in *Great Britain*, or be applied to the improvement of her Empire. Whenever these two purposes militate against each other, that which is most advantageous to *Great Britain* ought to be preferred. If the first of these purposes is well secured, the second will follow of course. The only means of employing extraordinary profits of trade in *America*, are either by luxury at home, or by settling and improving lands. *American* luxury sends the money to *Great Britain*, either mediately from the hands of the first expender, or immediately through the hands of the tradesmen, husbandmen, &c. with whom he deals. Settling and improving lands, is the means of raising and enabling other persons to deal with

Great Britain, and therefore it only postpones the remittances, hereafter to be made with interest. Therefore, if due care be taken to confine the sale of manufactures and *European* goods (except what shall be permitted) to *Great Britain* only, all the profits of the *American* Foreign trade will necessarily center in *Great Britain*. And therefore, if the first purpose is well secured, the foreign *American* trade is the trade of *Great Britain*: the augmentation and diminution, the extension and restriction, the profit and loss of it, all finally come home to the mother country.

It has been long ago admitted, that the *American* trade with the *Spanish West Indies* ought to be encouraged by all means: and why not also with the *French*? It is said, that the *French* will not admit any trade which is not advantageous to them. But how come they to have the power of picking and choosing their trade as they please? must not they submit to wants and necessities as well as the *Spaniards*? will not present convenience and private profit get the better of national considerations among the one as well as the other? It has done heretofore; and will do again, if *British* prohibitions do not prevent it. I have been told, that in the former *Spanish* war, the Admiral, stationed at *Jamaica*, had orders to encourage and protect the *English* trade with the *Spanish Main*. And yet, in strict law, a private correspondence with enemies is treason. In the last war there was a considerable trade carried on from some of the *British* Colonies to *French Hispaniola*,
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by means of letters of truce. This trade (except such part of it as was carried on with provisions) was generally allowed to be very advantageous to *Great Britain*: and it has been supposed that it contributed not a little to the means of carrying on the war both in *America* and *Europe*. It is pleasant, at this time, to observe the complaints of the *Jamaicans* upon their being obstructed in carrying on their trade with the *Spanish West Indies*; and yet they are for stopping and totally prohibiting the trade of the *North Americans* to the *French West Indies*. They can see plainly the loss to *Great Britain*, from their own trade being obstructed; but they cannot discover the loss which accrues from the obstruction of that of *North America*. In truth, it is the interest of *Great Britain* that both the one and the other should be encouraged as much as may well be. And the *West Indians* should be taught that equitable maxim of trade, "Live, and let live."

I have given your Lordship my thoughts upon these subjects, with great regard to truth in my opinion; and have accordingly treated the matters with such freedom, as the importance of the disquisition, and my duty to give your Lordship the best information in my power, required. All which I humbly submit to your Lordship.

And am, &c.

LETTER

LETTER VI.

To the Lord _____.

My Lord,

June 23, 1764.

I Am not now to acquaint your Lordship, that, ever since I have been in *America*, I have studied the policy of the several governments, and endeavoured to acquire a true idea of their relation to *Great Britain*; but I have had no encouragement to reduce my thoughts into writing, as heretofore the unsettled state of the public offices afforded me no prospect of a proper opportunity to communicate my sentiments upon these subjects. However, this spring, I formed my thoughts into a kind of regular system, as concise and as argumentative as could well be. And now I wish I had done it sooner; for the late proceedings in Parliament have given such a rouse to the politicians in this country, that it seems that a publication of something of this kind at this time might be of service. But I could not venture upon it myself, not only from diffidence of my own judgement, but because, in my station, I do not think myself at liberty to publish any thing of this kind, without first submitting it to my superiors.

I have therefore thought it proper to transmit to your Lordship two copies of this piece, that, if you think it deserves notice, you may transmit them to my Lords _____ and _____. Although it is concise,

cise, it is not obscure; and though short, it contains the heads of a great deal of matter; for it seems to me, that every thing I have to say of the *American Governments* in general, and my Province in particular, may be brought into commentaries upon this little piece; and for such a purpose I have intended it. If it has any merit, I would have the honour of your Lordship's mediation; if it has none, I shall stand in need of your apology.

I am, &c.

LETTER VII.

To ——— Esquire.

Dear Sir,

July 11, 1764.

IT seems to me that the affairs of *America* are becoming very critical; that common expedients would soon begin to fail; and that a general reformation of the *American Governments* would become not only a desirable but a necessary measure. Full of these thoughts, when I was at *Concord*, attending the Assembly, I reduced my sentiments upon this subject into writing, studying, as much as possible, method, argument, and brevity. The writing itself is a hasty work, done at such intervals of leisure as I could catch; but the matter has been the subject of much deliberation, and will afford

afford heads for many useful and interesting disquisitions.

As I much doubt of the propriety of my troubling immediately Lord ——— or Lord ——— with a paper of this kind, as I never have received a particular encouragement to take such liberty; about a fortnight ago I sent two copies of this paper to Lord ———, desiring that, if he thought it proper, he would introduce them to the Lords ——— and ———. By this conveyance I send a third copy to Lord ———, and a fourth copy to Mr. ———, for his use and yours. These are all I intend to part with. I directed the last to him, as I thought it probable you would see one of the two first.

I could (and probably shall) write large commentaries upon this analysis; some of which will be exoterick, and some esoterick. Many arguments may be offered in favour of this system, which would be suitable to and operative upon the people; but more, and of more weight, that are fit, most fit, for the Cabinet. For my own part (I speak with the vanity of a writer, and the prejudice of a system-maker) my doubts are more employed, how far this plan may be agreeable to the ideas which the ministers have already formed, than about its real truth and probable utility.

I am, &c.

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LETTER

LETTER VIII.

To ——— Esquire.

Sir,

Boston, October 28, 1765.

BY my letter to Lord ———, bearing date the 7th instant, I informed that I had called the General Assembly to meet at *Boston* the 25th instant: this was done not so much with the prospect of success, as that nothing might be left untried to procure obedience to the Act of Parliament. Before the Assembly met, I was particularly cautioned against speaking freely on the subject of the Act of Parliament: that the people would not bear to hear of a submission to it; and therefore it would be best to say as little of it as possible. But I observed the violence of the mob had intimidated some of the best men of the Province, and left the cause of the King and Parliament almost without an advocate—that if I should be awed also, so as not to explain to the Assembly the nature of the business for which they were called, there would be no means left to bring the people to their senses, and open their eyes to the danger they were running headlong into. It was therefore necessary for me to speak not only freely, but fully upon the subject; as my speech would be the only antidote for the poison which was continually distributed in weekly papers. But I meant to be as cautious as I could, without weakening the force of my argument.

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I accordingly opened the Session with the speech as inclosed ; and herein I must beg your Honor's indulgence, in regard to the improprieties of it ; that you will be pleased to consider it as addressed to a particular people, and for particular purposes, which induced me to treat a delicate subject with more freedom than I should have done, if my cause had not required it.

I shall constantly communicate to your Honor what shall further happen upon this dangerous and critical occasion ; and must beg your observance of my difficult and perilous situation ; in the midst of those who first stirred up these disturbances ; without a force to protect my person ; without a Council to advise me ; watched by every eye, and misrepresented, and condemned for every thing I do on the King's behalf ; not indeed charged personally with any default of my own, but continually arraigned and abused for the execution of the functions of my office. If things do not take another turn before the first of November, the appearance of Government will cease ; as the real authority has ever since the first riot. I must however, when I mention my being without a Council, except the Lieutenant Governor, whose zeal for his Majesty's service, and firmness of mind, has not been abated by the cruel treatment he has met with.

I inclose with this, copies of my speech to the General Court, the answer of the House of Representatives, and my reply thereto ; from all which I hope it will appear that I have left nothing undone to procure that

obedience to this Act, which I think due to every Act of Parliament from all *British* subjects. I am told here, that I have done more than I need have done; in that I must judge for myself: certainly I have sacrificed to my duty considerably. Such I reckon my losing the general good-will and good opinion of the people, not by any act of my own, but by the unavoidable obligations of my office, in a business in which I had no concern but as an executive officer.

I would not presume to give advice to his Majesty's Ministers of State: but yet I hope I shall be excused, when I reveal my earnest wishes, that some means may be found to make it consistent with the dignity of Parliament, to put the Stamp Act out of the question, at least for the present. For I am persuaded, that measures, which are now become more than ever necessary for bringing *America* into good order, will meet with tenfold difficulty, if taken before the present fermentation has subsided. At present, by artifice, prejudice, and passion, good men and bad men are unaccountably confounded together; a little time and management will separate them, and bring them under their proper arrangements.

I am, &c.

LETTER

LETTER IX,

To the Lord ———,

My Lord,

Boston, Nov. 23, 1765.

IT is not above a year since I troubled your Lordship with copies of an essay to delineate the *Principles of Law and Polity* applicable to the *British Colonies in America*. Among these, two principal conclusions were, that the regulation and reformation of the *American* government was then become a necessary work; and that the present was the most proper time to undertake that work. If I could have then spoke out with that earnestness with which I thought upon the subject, I should have urged it as a business which would admit of no delay; a business to which all others ought to have been postponed; as it was itself a necessary preparative to almost all others. But unfortunately (I speak it feelingly) the business of finances took the lead: this was undoubtedly an urgent and primary concern of the Councils of *Great Britain*; but it did not follow, that it ought to be immediately extended to *America*. A little consideration would have made it at least doubtful, whether an inland taxation of the *Americans* was practicable or equitable at this time. If I had had the question put to me, I think I should have proved the negative in both particulars.

It must have been supposed, that such an innovation as a *Parliamentary taxation* would cause a great alarm, and meet with much opposition in most parts of *America*: it was quite new to the people, and had no visible bounds set to it; the *Americans* declared that they would not submit to it, before the Act passed; and there was the greatest probability that it would require the utmost power of Government to carry it into execution. Whereas, at this time, the governments were weak and impotent to an amazing degree; the governors and officers of the Crown in several of the chief provinces intirely dependent upon the people for subsistence; the popular scale so much weightier than the Royal, that it required address and management, and frequent temporising, to preserve a tolerable balance; the persons of the governors and crown officers quite defenceless, and exposed to the violence of the people, without any possible resort for protection. Was this a time to introduce so great a novelty as a *Parliamentary* inland taxation into *America*?

Nor was the time less favorable to the Equity of such a taxation. I don't mean to dispute the reasonableness of *America* contributing to the charges of *Great Britain* when she is able; nor, I believe, would the *Americans* themselves have disputed it, at a proper time and season. But it should be considered, that the *American* governments themselves have, in the prosecution of the late war, contracted very large debts; which it will take some years to pay off, and in the mean time occasion
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very burdensome taxes for that purpose only. For instance, this government, which is as much before-hand as any, raises every year 37,500*£*. sterling for sinking their debt, and must continue it for four years longer at least before it will be clear. If therefore the parliamentary taxation had been postponed for this time, and the interval employed in regulating and strengthening the governments, it probably might have been then introduced without much difficulty. Now it seems that both one and the other are at a greater distance than ever.

It were much to be wished, that *America* could be brought to the state it was in two years ago; when there was a general disposition to submit to regulations and requisitions necessary to the reformation of the governments, and ascertaining their relation to *Great Britain*. But that time is past, and not to be retrieved. Since the insurrections against the stamp act, the *Americans* have found the governments so contemptibly weak, and the people so superior to royal authority, that they are not a little elated upon their triumphs over the defenceless officers of the crown; and seem to be resolved, that their idea of their relation to *Great Britain*, however extravagant, various, and inconsistent, shall be the standard of it: so that it is to be feared, that it will cost much time and treasure to bring *America* to that degree of submission which the Parliament will think necessary to require of them. The question will not be, Whether there shall be a stamp act or not; but whether

ther *America* shall or shall not be subject to the legislature of *Great Britain*.

It is my opinion, that all the political evils in *America* arise from the want of ascertaining the relation between *Great Britain* and the *American* colonies. Hence it is, that ideas of that relation are formed in *Britain* and *America* so very repugnant and contradictory to each other. In *Britain* the *American* governments are considered as corporations empowered to make bye-laws, existing only during the pleasure of *Parliament*; who hath never yet done any thing to confirm their establishments, and hath at any time a power to dissolve them. In *America*, they claim (I mean in the public papers) to be perfect states, no otherwise dependant upon *Great Britain* than by having the same King; which, having complete legislatures within themselves, are no way subject to that of *Great Britain*; which, in such instances as it has heretofore exercised a legislative power over them, has usurped it. In a difference so wide, who shall determine? the *Parliament* of *Great Britain*? No, say the *Americans* (I mean the violent of them); that would be to make them judges in their own cause. Who then? the King? He is bound by charters, or constitutions equal to charters, and cannot declare against his own grants. So, at this rate, there is no superior tribunal to determine upon the rights and privileges of the *American colonies*.

But the general plea of the *Americans* against the stamp act is, that they are not represented in *Parliament*,
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and therefore not liable to be taxed by it: to which it has been answered in *England*, that they are *virtually* represented in *parliament*. Each of these pleas tends to expose its own cause. If the *Americans* rest their defence upon their not being represented, it is in the power of the Parliament, by admitting representatives from *America*, to take away all pretence of their not being bound by its acts. On the other side, if the notion of the *Americans* being *virtually* represented should be falsified in fact, the plea of the *Americans* will remain in its full force. Whereas the right of the Parliament of *Great Britain* to make laws for the *American* colonies, is founded upon its being the *supreme, imperial* legislature, to which all members of the *Empire*, whether represented or not, are subject in all matters and things, and in manner and form, as shall be judged most convenient for the whole.

But though the Parliament of *Great Britain* does not stand in need of a real or virtual representation to ground its authority over the Colonies, it may now be worth consideration, whether admitting representatives from the Colonies may not be a proper expedient for the present exigencies. Two years ago, a proposal of this kind would not have borne a hearing: but so much is *America* altered by the late financial acts, that a new system of policy, and of a more refined kind than was wanted heretofore, is now become needful. The patchwork government of *America* will last no longer: the necessity of a parliamentary establishment of the govern-

ments of *America* upon fixed constitutional principles, is brought on with a precipitation which could not have been foreseen but a year ago; and is become more urgent, by the very incidents which make it more difficult. The circumstance of the *Americans* justifying their disobedience by their not being represented, points out a method to enforce their obedience upon their own principles. Take them at their word; let them send representatives for the present time, and for the present purposes: thirty for the continent, and fifteen for the islands, would be sufficient. In this Parliament, the Colonies being actually represented, let the affair of the *American* governments be canvassed to the bottom; and let a general, uniform system of *American* government be formed and established by *Act of Parliament*, by which the *Americans*, according to their own principles, will be bound; and let the relation of *America* to *Great Britain* be determined and ascertained by a solemn Recognition: so that the rights of the *American* governments, and their subordination to that of *Great Britain*, may no longer be a subject of doubt and dispute. When this great work is done, the *American* representatives may be dismissed, and left to attend their own legislatures, which will then know the bounds of their own authority; or may be continued, as shall be found most adviseable.

Ireland affords an example of the usefulness of this work, and the manner of doing it. It is owing to the wise administration of *Ireland*, when it was first made a kingdom,

kingdom, that the form of government of that island, which is as perfect for a *dependent*, as that of *Great Britain* for a *supreme* power, has lasted now for *two hundred and seventy* years, without wanting the least amendment of fundamentals. Haply *America*, in the formation of her government, had not the same care taken of her, to regulate her policy, and prevent the mischiefs which the uncertainty of the relative powers of civil government, *supreme* and *subordinate*, is now bringing on like a torrent. The civil policy of *America* is composed of temporary expedients, all derived from the Crown only; not one of the *American* governments has that sanction which none of them ought to be without, a *parliamentary* establishment. And, until the Parliament shall establish the *American* governments upon a constitutional bottom, and ascertain the limitations and extensions of their legislatures, it must be expected that the governments will be continually subject to disturbance, whenever the *Americans* think fit to complain of innovations upon, and infringements of, their rights; that is, whenever any thing is required of them which they don't like.

Ireland also affords instances of every kind of regulation which *America* wants; which may be brought under these heads: 1. The governments (especially in the old and settled countries) should be composed of such ample districts as will enable the people to keep up the state of government without feeling the burden of it; 2. There should be one form of government, as

like . . . possible to that of *Great Britain*; that is, the same as *England*; with a true middle legislative power, appointed by the King for life, and separate from the Privy Council: 3. There should be a certain and sufficient civil list laid upon perpetual funds, for the support of all his Majesty's officers; so that they may not be too much dependent upon the people: 4. The several *American* governments should maintain such standing forces as shall be thought necessary to be kept up in *America*, as their quota of the general armament of the empire, by raising the sums requisite therefor, and paying the same into the King's Treasury in *America*; the numbers of men, and proportions of the several governments, to be settled by the Parliament of *Great Britain*: 5. There should be a solemn recognition of the *supremacy of the Parliament of Great Britain* over the *American* governments; which should be the first act of each Legislature after its new establishment, and be the condition of its activity: 6. There should be a general revival of the laws of *America*, that they may be reduced, as near as possible, to the standard of *England*, and the administration of government and law may be rendered as similar thereto as well may be.

You see here, my Lord, a scheme for settling *America*; which, I doubt not, will appear to be very extravagant. It may be so; but such also is the state of the country: extraordinary disorders require extraordinary means of cure. It seems to me, that the government of *Great Britain* never had, in any time, a more difficult

cult business than what the *Americans* have now put into their hands. If therefore any scheme can be proposed, which, by constitutional means, will probably compose the present disorders, and prevent the like for the future, it is worth attending to. For this purpose, I have put these thoughts into writing, in an hasty manner; for at present I can write no otherwise: and I communicate them to your Lordship, that, if you should think they deserve a deliberate consideration, you may procure it for them. I shall think myself very happy if I can contribute to the restoring the peace of *America*, and establishing the governments of it upon a constitutional and permanent basis, according to the foregoing or any other system. The opportunities I have had of observing the policy and manners of many of the governments of *North America*, have afforded me a knowledge which might be made useful if I could freely communicate it; which cannot be done without my personal attendance. I say this upon a presumption that some effectual regulation of the government of *America* is like to be brought on the carpet: but, if nothing is to be done but making peace with the *Americans*, and letting them go on in their own way, and according to their own notions, no great consideration will be necessary.

I am, &c.

LETTER

L E T T E R X.

To ——— Esquire.

Dear Sir,

Boston, Dec. 14, 1765.

I Doubt not but the present state of *America* will occasion a great diversity and some perplexity in the Councils of *Great Britain*. This must show a necessity of regulating the Colonies effectually without delay, and may give an opening to the consideration of some proposals which have been heretofore disregarded. You may remember that, about a year and a half ago, I sent home a small argumentative piece, intituled, "*Principles of Law and Polity, &c.*" I sent but four copies of it; and as I knew you would have the command of one or two of them, did not send one directly to you: as it was then taken no notice of, I suppose it is now entirely forgotten: and yet it is now worth while to revise it; to see how hastily those evils, which I supposed then to be at no great distance, have come upon us. The present distresses of the *American* governments are fatal and unhappy comments upon my work, such as I never desired to see. A further delay of a Parliamentary regulation of the *American* governments, and above all, ascertaining the nature of their subordination, will, I fear, make the business irretrievable. When the *Americans* have actually acquired the power of defying the *Parliament*, which some of them vainly pretend

to now, a separation will soon follow. The weak patchwork government of this country has no power to defer such an event one hour after the people have resolved upon it.

I now send you a copy of the *Principles, &c.* and desire that you would again peruse it, and apply it to the present times. If you should think that it may be made serviceable to the grand business in hand, you will use it to that purpose, either by communication in manuscript, or, if it is like to be of general use, by printing. Having now looked over it at a year's distance, I find no reason to alter my opinion in any article, excepting in regard to the allowing the *Americans* Representatives in Parliament. I then considered this as a matter of indifference; I do not think it so now: it seems to me, at this time, to be capable of being made an useful expedient, or rather a refined stroke of policy.

The chief arguments of the *Americans* against their being subject to Acts of Parliament which impose inland taxes (and it will hold equally good against all other Acts of Parliament for the regulation of their internal policy) is, that they are not represented in Parliament. This is the Palladium of their cause: but they have of late discovered, that this is a dangerous argument; for if the Parliament should allow them to send representatives, they are concluded, and must then be bound, by Acts of Parliament, according to their own principles. Therefore of late, when they use this argument, they add, that such a representation is impracticable.

licable. Now it certainly is not strictly impracticable; though it may be difficult, inexpedient, or improper. But it seems to me, that it is both expedient and proper for the present time and purposes. The Parliament must now interpose for regulating the policy of *America*, or else all things will run into confusion. But if they proceed to such regulations, whilst the *Americans* dispute their authority, what can be expected but an enforced obedience, whilst the seeds of opposition lie ready to shoot up in a proper season? whereas, if the Parliament first removes the pretence for the Colonies not being subject to it, there can be no pretence for their disobedience afterwards.

Besides, if the Parliament should undertake so important a work as the new modelling the governments in *America*, which seems to me to be at this time unavoidable, it appears reasonable that the Colonies should have their Deputies in the House, both to hear and to speak upon the subject relating to them. If they were allowed this liberty (even though they did not accept it, as probably some of them would not) they could not complain of their rights being disposed of without their being heard, as they do now. For a liberty of sending Representatives would conclude them, whether they sent them or not. And this leads me say, that I do not propose *American* Representatives as a perpetual establishment, but only as a temporary ordinance. When the business is done, the governments new modelled, their Legislatures established upon constitutional principles

ples and a permanent bottom, and a recognition of the supremacy of the Parliament of *Great Britain*, passed the new Legislatures as a first and conditional Act, there will be no longer occasion for *American Representatives*; they may return and serve in their own Assemblies, which then may be as separate from that of *Great Britain* as that of *Ireland*.

I have made this letter longer than I intended; indeed the subject of it engages all my thoughts. I hope the present disorders of *America* will occasion such effectual measures being taken, as will prevent the like for the future. The Stamp Act seems to me to be like a sudden accident to an human body, which occasions its flinging out some latent disease, which, if it had been concealed much longer, would have been past curing. I hope the State doctors have discovered this disease in time, and will apply proper remedies to it: they must begin with palliatives, but they must search it to the bottom before they have done.

I am, &c.

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LETTER XL.

To ——— Esquire.

Sir,

Boston, Feb. 28, 1766.

IN my letter to your Honor, dated *January 25*, I mentioned my opinion, that, whenever an intermission of the present troubles should allow of my absence for part of a year, I could not be better employed, than by being ordered home, to make a report of the present state of this country. As the Assembly is now broke up in tolerable good humour, the time seems favourable to me to pursue the same subject; and, from shewing the necessity of taking some extraordinary measures for the regulation of the government of this country, evince the expediency of his Majesty's Ministers procuring the most precise information concerning the present state of it; that, by tracing the sources of the disease, they may be more able to apply the most proper remedies to them.

The Stamp Act is become in itself a matter of indifference; it is swallowed up in the importance of the effects of which it has been the cause. The taxing the *Americans* by the Parliament, has brought their very subjection to the Crown of *Great Britain* in question. And as the relation between *Great Britain* and the Colonies has not only been never settled, but scarce ever formally

formally canvassed, it is the less surprising, that the ideas of it on one side of the water and on the other are so widely different. To reconcile these, and to ascertain the nature of the subjection of the Colonies to the Crown of *Great Britain*, will be a work of time and difficulty, even though the Stamp Act should be removed to pave the way for it.

This will be the case of the Royal Governments, even the best of them; and in this government the Royal Authority will never recover itself again, without the interposition of *Great Britain*. The people have felt their strength, and flatter themselves that it is much greater than it is; and will not, of their own accord, submit readily to any thing they do not like: and there is no internal principle of policy which can by any means restore the power of Government, and enforce a due subordination. In this Province (which, though Royal in the appointment of a Governor, is democratical in all its other parts, especially in, what is frequently regretted, the appointment of the Council) the springs of Government are so relaxed, that they can never recover their tone again by any power of their own. This is the general opinion of the wisest and most respectable persons in the Province, with whom I have talked upon this subject.

It is not so difficult to determine what shall be done, as how to do it; the faults of the constitution are obvious, but it is not so clear how they should be remedied. For this purpose it is highly proper, that as

perfect an idea of the Government, the defects of its form, and the abuses of it should be obtained, as well can be had. This does not come within the reach of common observers: it is to be acquired only by an attention on the spot, with a power of examining it as well by known rules of policy, as by comparison with other states. This will be the business of but few, and of those only whose employment naturally leads them into it, and affords opportunity for it.

If his Majesty's Ministers should think it necessary to have a representation of the present state and exigencies of this Province from an eye-witness of its disorders, I could recommend no one for that purpose so well as myself. I have well studied the subject, with a close and interesting attention, for near six years. As I came hither without any attachments to this form of government, other than the obligations I am under to observe and maintain it whilst it is committed to me, I have been used to examine it speculatively with freedom, and have not shut my eyes to its faults and deficiencies. From arguing upon the original unconstitutionality of the Government, I am now brought to the observing its extreme weakness, and great inability to answer its own purposes in a time of trial. In this I am not singular: the late commotions have opened the eyes of the most prudent and considerate, and have shewn how much the preponderancy of the popular scale tends to defeat the principal ends of Government,

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the peace of the country, and the good order of the people.

The subject-matters of these considerations are of a very delicate, as well as a very interesting nature. If there was no danger in treating them with freedom, which is far from being the case with me, there would be no little difficulty, at this distance from his Majesty's Councils, to distinguish on what points or questions informations may be wanted. If this difficulty should be removed, still the other must make a strong impression upon the mind of a prudent man. A representation of the present state of this country, and the disorders of this government, under the hands of a resident in the midst of it, would be a task of so much danger, that it must necessarily be executed with too much caution and reserve: whereas a communication in person would be free from these difficulties, and in all respects be more effectual and conclusive.

I have neither business nor pleasure to call me to *England*; but I am desirous of being as serviceable as possible at this critical and dangerous time; and I persuade myself (perhaps not without self-flattery) that I should be most so in the quality of a Reporter of the present state of this country. I have studied the policy of *America*, on the spot, for near eight years; and have long ago foreseen, that a dispute, concerning the nature of its subjection, must necessarily happen some time or other, if not prevented by particular measures for that purpose. Indeed, I did not expect it would have

have been brought on so soon, by many years: but perhaps it is happy for *Great Britain*, that it has been thus accelerated.

I shall be proud to receive your Honor's commands upon the aforementioned subjects; and I will beg leave to observe, that, if they are to contain an order for me to proceed to *England*, it would be convenient, that such order should arrive as soon as well may be; for, in such case, there will be no time to spare for me to get to *London* at the beginning of the next winter.

I am, &c.

L E T T E R XII.

To the Earl of ———

My Lord,

Boston, Aug. 25, 1767.

I BEG leave to lay before your Lordship a representation of the state of the currency of this Province, tending to shew the ill effects which the encouragement of paper-money in the neighbouring Colonies will bring upon it. The occasion of drawing up this representation was this: It appeared in the *London* newspapers, that *Dennis De Berdt* Esquire, agent for *Massachusetts Bay*, joined other agents of the Colonies in their solicitation for a permission to create paper-money. If
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Mr. *De Berdt* had been agent for *Massachusetts Bay*, as he really never was more than a *Charge des Affairs* of the House of Representatives, he could not have done any thing more contrary to the sense of this Province, than appearing as an advocate for paper-money. As this people have had full experience of the mischiefs of that currency, there is nothing they more dread than the return of it among them.

In the last session, the Council, taking into consideration the aforementioned news-paper article, thought it proper that a representation should be made, to prevent this Province being so far misunderstood as to be ranged among the solicitors for paper-money; a species of riches which they never desire again to acquire. For this purpose, the Council endeavoured to engage the House to join with them: but, the House chusing to act separately, the Council proceeded to appoint a Committee to draw up a representation, to be transmitted by the governor to his Majesty's Ministers. The inclosed is the produce of this resolution, which I beg leave to submit to your Lordship, to be laid before his Majesty, if it shall be thought proper. This remonstrance is founded only upon an apprehension of the mischiefs that will arise to this Province by removing the present restraints upon making paper-money within the adjoining Colonies: although the arguments used in it conclude against the use of paper-money in general. The few observations I have to make upon this subject, I shall apply to the general question.

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When I first came to *America* as Governor of *New Jersey*, I was placed among paper-money the most creditable of any on the continent, never depreciated, and accompanied with a sufficient quantity of silver specie for external trade: and yet, through all this fair face, the ill consequences of those emissions were very apparent at no great distance. In the first place, there was no obligation for redemption at a certain time, notwithstanding instructions to Governors, and clauses of bills in pursuance thereof. For before any sett of bills were redeemable, another sett of bills were emitted, with the usual clause of their being a general tender. They therefore were a tender at the Treasury for the redemption of expired bills. In vain, therefore, did the possessor of bills read upon the face of them, that he was intitled to a certain quantity of silver: when he applied for it, he might be told, that by subsequent laws the silver was turned into paper, and that he would have no right to insist upon being paid in silver, whilst any emission of bills remained unexpired. This was generally understood to be the law: but it was certainly not so with regard to the possessors of the bills who were not subjects of the province, and therefore were not bound by the subsequent laws substituting new bills in lieu of the silver promised by old ones.

We read in the news-papers, that the merchants of *London*, who solicit for leave to emit paper-money, propose that this paper-money shall not be a tender for debts due to *British* creditors. They are

in the right to take care of themselves ; but they should also have considered the propriety of their endeavouring to put others under dangers and difficulties which they protest against for themselves. If there is no danger of the paper-money, for which they solicit, depreciating, why won't they run the risk of it themselves ? if there is a danger, why will they solicit it ? if they would persuade the Parliament to have confidence in *American* paper-money, they should shew it in themselves : but I believe every one will be for guarding against it as well as they can. If the *British* creditors are to be exempted from the clause of tender, they of *Massachusetts Bay*, which deals only in specie, have a right to expect the same exemption ; the colonies, whose paper has not depreciated, will expect to be exempted from that which is now in actual depreciation ; and, in the next step, each colony will require to be exempted from the paper of all others : and, at length, as the circulation is contracted, and the credit impaired, the people will want to be exempted from their own paper.

I remember upon a time, when I had the honor to converse with the late Earl *Granville*, then Lord President of the Council, upon the subject of paper-money, his Lordship observed, that enforcing its currency destroyed its credit ; and added, that if Bank bills, which were now current almost preferably to cash, were to be made by act of Parliament a legal tender, they would immediately depreciate. This observation is at first very striking, and, when applied to the *American* paper-

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money, forms an argument that is unanswerable. Every state or corporation, as well as private person, has a certain quantity of credit, within which they can borrow any money they please. Every colony, I suppose, is at liberty to borrow money in this way; and so long as their credit keeps up, their securities will circulate. But when they come to ask leave to enforce the circulation of such securities beyond their natural credit, what is it but to oblige people to lend them money whether they will or not; or, in other words, to take from the people their money against their will? I have always thought, that to oblige people to take paper instead of money, except under the exigencies of real necessity, is a very despotic act: and yet in *America*, because it has happened to coincide with the schemes and interests of the popular leaders, it seems to have changed its nature. What would be said, if the Parliament of *Great Britain* should raise money by issuing notes enacted to be legal tenders?

A principal objection against paper-money seems to me not to be taken notice of so much as it deserves. It is this: When the currency is the only specie, it forms a kind of barometer, whose rising and falling show the people the increase and decrease of the general stock. If they are carrying on a losing trade, or import more than their exports will pay for, or live at a greater expence than their income will bear, the want of cash gives them warning, and obliges them to attend to it. But where the currency is paper, and that in plenty,

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a people may go on, by the various means of a losing trade, unnecessary imports, and extravagant living, to the utmost extremity of bankruptcy, without having any warning, except perhaps the depreciating of their paper. And this last is generally made use of to encrease the calamity, by the introduction of numberless frauds, for which it is peculiarly calculated. So that when the people are obliged to strike a balance, they find themselves deep in debt, without a shilling to pay, without money, and without credit, calling in vain as private, for what they owe to themselves as a public. I have in a former letter to your Lordship's office, called paper-money the negative power of riches; it is doubly so: it at first occasions all the specie in the country to be carried out of it; and afterwards it creates a want of an extraordinary quantity of specie to pay the debts, of which it bears the testimony.

But after all that has been said against paper-money, I am sensible that it is not so easy to tell how to get rid of it, as it is to shew its mischievousness. A colony who sets about changing their paper into a specie currency without a lucky opportunity, such as the *Massachusetts* laid hold of, will have many difficulties to struggle with before they attain their end. But they must succeed, if they persevere; for a balance of trade in their favor, and a proper oeconomy in their domestic expences, must produce an encrease of specie, until there is enough for the ordinary currency. But the misfortune is, that the advantages proposed from such

an effort are distant, and the inconveniencies attending it are immediate. People are too intent upon the present; they would have posterity do something for *them*; and by the means of paper-money they really effect it. Hence arise solicitations for paper-money, first founded on self-interest, and afterwards enlarged by connexions. But surely if people would look forward for a few years to come, they would cheerfully submit to some temporary inconvenience, in order to remove the accursed thing from them, and substitute in its stead real riches and true credit for all future time,

I have, according to the desire and expectation of the Council, communicated to your Lordship my sentiments upon the subject of the papers enclosed; at the same time I submit them. I have run into greater length than I intended; but I hope the importance of the subject, and the earnestness of this government to bear testimony against paper-money, will excuse it.

I am, &c,

LETTER

LETTER XIII.

To the Lord ———.

My Lord,

Boston, Jan. 28, 1768.

I Understand that it is a prevailing opinion on your side the ocean, that *America*, if let alone, will come to herself, and return to the same sense of duty and obedience to *Great Britain* which she professed before. But it seems to me, that discerning and considerate men on this side the water expect no such thing. If indeed the ill temper of the *Americans* had arose from accidental causes, and exercised itself without meddling with fundamental principles, the cause ceasing, the effects might also cease; and the subject of complaint being removed, a perfect and durable conciliation might be restored.

But when the dispute has been carried so far as to involve in it matters of the highest importance to the *imperial Sovereignty*; when it has produced questions which the *Sovereign State* cannot give up, and the *Dependent States* insist upon as the terms of a reconciliation; when the *Imperial State* has so far given way as to let the *Dependent States* flatter themselves that their pretensions are admissible; whatever terms of Reconciliation time, accident or design may produce, if they are deficient in setting the true Relation of *Great Britain* to her *Colonies*, and ascertaining the bounds of the *Sovereignty* of
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the one, and the *Dependence* of the other, Conciliation will be no more than a suspension of animosity; the seeds of which will be left in the ground ready to start up again whenever there shall be a new occasion for the *Americans* to assert their independence of the authority of *Parliament*; that is, whenever the *Parliament* shall make ordinances which the *Americans* shall think not for their interest to obey.

It was easy to be foreseen, that the distinctions used in *Parliament* in favor of the *Americans*, would be adopted by them and received as fundamental laws. It would signify nothing by what number these distinctions were rejected: the respectableness of the names of the promoters of them, and the apparent interest of the *Americans* in maintaining them, would outweigh all authority of numbers for the contrary opinion. It was also to be foreseen, that the *Americans* would carry these distinctions much further than the promoters could possibly intend they should be. But yet they never gave me any concern; because they carried their remedy with them: if they were hurtful to the constitution, they had an antidote at hand; and, like the ancient spear, if they wounded the Sovereign state, they produced a rust to cure it. If the *Parliament* cannot tax the *Americans* because they are not represented, it may allow them Representatives, and the authority is complete.

I have been used, and always disposed, to set a high value upon the wisdom of statesmen, perhaps sometimes
higher

higher than it may deserve; and I am still desirous rather to err on that side than the opposite. When the great Mar. for whose political abilities I then had and still have the highest reverence, founded his impeachment of the power of *Parliament* to tax the *Americans* upon the want of *American* Representatives, it appeared to me to be a stroke of refined policy. I considered this difficulty to be started, in order to enforce the necessity of allowing the *Americans* to send Representatives to *Parliament*. I considered not only the advantages which might arise from such an ordinance for the present, by removing all objections to the power of *Parliament*; but also the benefit which must arise for the future, by incorporating *America* with *Great Britain* in an Union, which must more effectually prevent a separation than can be provided by any other means. If this purpose had been pursued to this conclusion, the author of it would have been deservedly esteemed the benefactor of both countries. Without this conclusion, it is not easy to see how this contravention of the *Authority of Parliament* can be of service to either.

Let us state the positions, urged in *Parliament* on the behalf of the *Americans*, and the use which has been made of them in *America*, and see how far the chain of reasoning can be extended. It was said in *Parliament*, that, 1. The *Parliament* had no right to tax the *Americans*, because the *Americans* have no Representatives in *Parliament*. 2. But they have a right to impose *port duties*, or *external taxes*, because such duties are for the

the regulation of trade. 3. The difference between an *external* and *internal* tax is, that the former is imposed for the regulation of trade, and the latter for raising a revenue. From these premises, the *Americans* have drawn the following conclusions: 1. *Port duties*, imposed for raising a revenue, are *internal* taxes. 2. *Port duties*, of which the produce is to be paid into the Exchequer, for the use of Government, are imposed for raising a revenue. 3. The produce of all the *port duties*, imposed upon *America*, is ordered to be paid into the Exchequer, for the use of Government. 4. All the *port duties*, imposed upon *America*, are *internal* taxes. The only difference between the *port duties* declared to be for raising a revenue, and those of which no such declaration is made, is, that in one, the intention is explicit; in the other, it is implied: they both come within the definition of *internal* taxes, and there are no taxes left for the distinction to operate upon.

This is not a fictitious argument, but a real one, now urged and insisted upon as the terms of a good agreement between *Great Britain* and her Colonies. For proof of which, I refer your Lordship to the Farmer's Letters, in which you will find the whole of this argument laid either positively or consequentially. What then shall be done? shall the Parliament make a new declarative Act? see! here are counter declarations to the former Act. Shall they take no notice of these *American* pretensions? they will then be confirmed in the minds of the *Americans*, and become really what
they

they are now proclaimed to be, a Bill of *American* Rights. The right way to get rid of these difficulties, which have arose out of the political dissensions at *Westminster*, is to allow the *Americans* to send Representatives. This will be a full answer to all their pretensions: it has been for some time past expedient; it is now become necessary.

In one of the news-papers, inclosed with this, is a speech, said to have been spoke in the House of Lords, which has been reprinted from a *London* Pamphlet. The whole argument of this does not tend to shew that the *Americans* ought not to be taxed; but that, previously to their being taxed, they ought to be allowed to send Representatives. This has been extremely well received here, although the conclusion is for an *American* representation. If this was really a speech of a Lord of that House, it might have been properly answered by admitting the conclusion, and thereby avoiding a dispute about the premises. If the *Americans* should be allowed Representatives, it would become a question merely speculative, whether Representation is necessary to taxation or not.

And yet the *Americans* in general do not desire a Representation, though the publications on their behalf all tend to that conclusion; and some of them seem calculated to force the Parliament into that measure, as the only one which will satisfy them. The truth is, that though the leaders of the people set out with a view of obtaining a Representation, and have never lost sight of

it; it has but lately occurred to the People in general, that this may be a probable consequence of their denying the authority of Parliament: the former have had no objection to being Representatives; but the people have not as yet seen their interest in sending them. It is from this disposition in the demagogues, as well as from the support they received in Parliaments turning upon the same question, that the *Americans* have founded all their arguments against the authority of *Parliament*, on their want of Representatives in it; and a system for separating them from *Parliament*, is formed upon a proposition, which it is in the power of the *Parliament*, at pleasure to convert into the means of more closely uniting them with it. But the mutual interest of the two countries seems to be equally misunderstood on both sides of the water.

I will illustrate this account of the ideas of the *Americans* by a fresh fact. At the opening of the present Session of the Assembly of this Province, a Member, who had distinguished himself by carrying the objections to the authority of *Parliament* to their greatest length, now in a set speech, retracted all his former opinions; and said, that he had fully informed himself of the relation between *Great Britain* and her Colonies, and was convinced, that the power of *Parliament* over her Colonies was absolute, with this qualification, that they ought not to tax them, until they allowed them to send Representatives; and that, if the Colonies had Representatives, the power of *Parliament* would be as per-

set in *America* as it was in *England*. He then argued for an *American* Representation, and said it was now become a measure necessary to *Great Britain* and the Colonies, for the healing the breaches between them.

This surprized the House: but their eyes began to open. A member, on the side of government, charged the opposition with an intention to make an *American* Representation necessary, by their denying the authority of Acts of *Parliament* over them, because they were not represented. The proofs he adduced, and the equivocal answers of the other party, left little doubt of this. Upon this, an old member (whose name and character are well known in *England*) said, that as they were determined to have Representatives, he begged leave to recommend to them a merchant, who would undertake to carry their Representatives to *England*, for half what they would sell for when they arrived there.

It has been a serious objection, that *American* Representatives would be subject to undue influence: but are not *English* Representatives so? and is that, an argument against having Parliaments? Another is, that the Colonies would not be able to maintain them. Both these, which contradict each other, would be easily answered. But the most interesting objection, which is not avowed, and therefore cannot receive a formal answer, is, that an *American* Representation will take away all pretences for disputing the ordinances of *Parliament*. The admission of *American* Representatives in *Parliament*, will allow of the continuing the Provincial Assemblies

for the purposes of Domestic Economy: and therefore no objections can be drawn from the cessation of the inferior Legislatures: the supposition of which would create infinite difficulties.

Upon the whole, my Lord, if there was no necessity for the appointment of *American Representatives* (which I think there is, and that very pressing) the idea of it greatly enlarges my view of the grandeur of the *British Empire*. And, if there is any danger of its falling to pieces, which surely cannot be too much guarded against, it seems to me that nothing can so effectually provide against so fatal an event, as binding the Colonies to the Mother-country by an incorporating Union, and giving them a share in the Sovereign Legislature. If this was done, there could be no dispute about the rights and privileges of *Americans* in contradiction to those of *Britons*; and an opposition by force to the Government of *Great Britain* would have but one name. And then we might expect a longer duration to the entire *British Empire*, than desponding politicians are willing to promise at the present time, and in its present state.

I am, &c.

LETTER

LETTER XIV.

To ——— Esquire.

Dear Sir,

Boston, Sept. 20, 1768.

I HAVE received both your kind letters, of July 9th and 30th, and am much obliged to you for your friendly professions of an attention to my interests. I am sensible that you never have been without it; and must congratulate myself, that you are placed in a station which will afford you frequent opportunity of exercising your regard for me.

The hint you have given me of my appearing to want Confidence in Government, has been partly explained in some private letters, which have been communicated to me. I learn that my Speech, my Answer to the town, my giving way to the populace, &c. have done me much injury, so that my want of spirit, in conducting the new measures, is much suspected. As for my Speech (I know not which is meant) and my Answer to the town, I would ask what Concessions have I made that I ought not to have done? or what else is blameable in them, except using civil words? and of what service, at that time, would have been the use of harsh words? As for giving way to the populace (in whose hands, be it observed, I have been left for above three years) I would again ask, what have I given up

to them that I could maintain? and how would it have served his Majesty's cause, for me to have provoked the people, in whose power I was, to have knocked me on the head, or drove me out of town?

They, who suspect my want of spirit, should go back to the latter end of the year 1765, and the beginning and greater part of 1766; when my friends in vain endeavoured to persuade me to consult my Safety at the expence of my Duty; let them read my Speech on October 25. 1765, of which the Lieutenant Governor said some time after, that he was surprized to see me in the Province so long after I had made that speech. In this spirited conduct, I persisted till I found it did not agree with the System at home, which required lenient measures, and soft speeches to bring about Conciliation without Correction. I knew, that this would not do with the people I had to deal with; but I could not dispute about it. And now the System is changed, and spirited measures are found necessary, why should it be supposed that I cannot re-assume such a conduct under the assurance of being supported, when I so readily assumed it upon my own judgement only, without knowing whether I should be supported or not? All the reason I can see for such a suspicion, is, that I was not, at the distance of 3000 miles, acquainted with the political change, at the time it took place in London, and continued to act upon the old System before I was well informed of the new one.

I am indeed a good deal worn with my former service, which has been severe and dispiriting for three years past ; and I had expectation that I was even now going to receive my reward, in being placed in a station where I should have health, peace, and competence. I carried my expectation so far, as to engage a cabin, and fix upon a day for embarking. But since the King's service requires that I should continue here in further action, I submit chearfully to my destination ; and hope I have strength enough to serve another campaign. If the dispute lasts much longer, it will be too much for me. I therefore hope that my Lord ———'s kind intentions towards me will be kept alive, till they have their full effects, and that at no great distance of time.

I am, &c.

PRIN-

I have indeed a good deal worn with my former ser- vice, which has been severe and debilitating for three years past; and I feel apprehension that I was even now going to receive my reward, in being placed in a station where I should have health, peace, and competence. I carried my expectations so far, as to engage a cabin, and fix upon a day for embark- ing. But into the King's service I had been appointed, and I had to give up the cabin, and the day for embark- ing. I had to give up the cabin, and the day for embark- ing. I had to give up the cabin, and the day for embark- ing.

P R I N C I P L E S

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PRINCIPLES

LAW AND POLITICS

OF THE

UNITED STATES OF AMERICA

AMERICAN

EDITION OF THE YEAR 1884

As is mentioned in the
Laws VI and VII.

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P R E F A C E

In the Year 1764.

A VIEW of the present wealth, power, and extension of the *British Empire* is alarming as well as pleasing: we cannot but be concerned for the stability of a fabrick built on so disjointed foundations, and raised to so great a height; and must be convinced that it will require much political skill to secure its duration. The most obvious means to effect this, must be an Union of the several parts of this vast body; and especially a Connection between the *Seat of Empire* and its Dependencies; a Connection not created by temporary expedients, or supported by enforced subjection; but established upon fixed *Principles of Law and Polity*, and maintained by a regular, free, and equitable subordination. What are the principles which will best connect the Head and the Members of this great *Empire*; is the subject of the present enquiry. They ought to be simple, plain, and certain, or they will not be suitable to their general purpose; they ought to be generally admitted, or they will not have their full effect; they must be such as will stand the test of reason, or they will not be generally admitted.

In this disputative age, and in a science of all the most disputative, it may seem a difficult task to attempt to set-

tle a general theory for a business in which such a variety of passions, prejudices, and interests, are like to interpose. Sensible of this, and studious only of Truth and Utility, the writer has avoided declamation, and kept close to argument. He has reduced his whole subject into a set of propositions; beginning with first principles which are self-evident, proceeding to propositions capable of positive proof, and descending to hypotheses which are to be determined by degrees of probability only. This was intended to be a perfect chain; the avoiding of prolixity is the cause why it is not so; where any links shall appear to be wanting, the judicious reader will easily supply them. The advantages of this kind of writing are obvious: by seeing the principles and the reasoning of the arguments laid before him articulately, the reader can more precisely determine what to assent to, and what to deny; and the writer, if he should appear to be mistaken, will have the merit of contributing to his own conviction.

The present expectation, that a new Regulation of the *American Government* will soon take place, probably arises more from the opinion the public has of the abilities of the present Ministry, than from any thing that has transpired from the Cabinet: it cannot be supposed that their penetration can overlook the necessity of such a Regulation, nor their public spirit fail to carry it into execution. But it may be a question, whether the present is a proper time for this work: more urgent business may stand before it; some preparatory steps may
be

be required to precede it; caution and deliberation may retard it: but these will only serve to postpone. As we may expect that this Reformation, like all others, will be opposed by powerful prejudices, it may not be amiss to reason with them at leisure, and endeavour to take off their force before they become opposed to Government.

you have been very kind to write to me
and to let me know that you are still
in the land of the living. I am
glad to hear that you are well and
hope that you will continue to be so.
I am sure that you will find many
things to interest you in the new
year.

Yours truly,
[Signature]

1892

PRINCIPLES

OF

LAW AND POLITY.

1. **T**HE Kingdom of *Great Britain* is *imperial*; that is, Sovereign, and not subordinate to or dependent upon any earthly power.
2. In all *imperial* states there resides somewhere or other an absolute power, which we will call the *Sovereignty*.
3. The *Sovereignty* of *Great Britain* is in the *King in Parliament*; that is, in the King, acting with the advice and consent of the *Lords* and the *Commons* (by their Representatives), assembled in the *Parliament* of *Great Britain*.
4. The *King in Parliament* has the sole right of legislation, and the supreme superintendency of the government; and, in this plenitude of power, is absolute, uncontrollable, and accountable to none; and therefore, in a political sense, can do no wrong.
5. The Execution of the government is in the *King* alone, to be exercised according to the laws of the country, written and unwritten.

6. The

6. The exercise of this right is the *King's Prerogative*; and, whilst it is regulated by the laws, the *King* can do no wrong in such exercise.

7. The laws are either unwritten, that is, rules of government immemorially admitted and approved; or written, that is, ordinances of the *Parliament*.

8. The *privileges* of the people are the right of having conjunctively, by their representatives, one third part of the sovereign legislative power, and of enjoying separately the protection and benefit of the laws.

9. The kingdom of *Great Britain* has, belonging to and depending upon it, divers external dominions and countries; all which, together with *Great Britain*, form the *British Empire*. Let, therefore, the *British Empire* signify the aggregate body of the *British* dominions, and the *Kingdom of Great Britain* the island which is the seat of the government.

10. The *King in Parliament*, is the sole and absolute Sovereign of the whole *British Empire*.

11. No members of the *British Empire*, other than the *Parliament of Great Britain*, can have a right to interfere in the exercise of this Sovereignty, but by being admitted into the *Parliament*, as *Wales*, *Chester*, and *Durham* have been, and *Ireland* may be.

12. Such an union is not necessary to the generality of the *British* external dominions; but it may be expedient with most of them.

13. The external *British* dominions, without such an union, are subordinate to and dependent upon the *Kingdom*

dom of Great Britain, and must derive from thence all their powers of legislation and jurisdiction.

14. Legislation is not necessary to an external and dependent government; jurisdiction is necessary and essential to it. Therefore,

15. A separate Legislation is not an absolute right of *British* subjects residing out of the seat of Empire; it may or may not be allowed, and has or has not been granted, according to the circumstances of the community.

16. Where it is granted or allowed, it must be exercised in subordination to the Sovereign power from whom it is derived.

17. No grant of the power of Legislation to a dependent government, whether it comes from the *King* alone, or from the *Parliament*, can preclude the *Parliament* of *Great Britain* from interfering in such dependent government, at such time and in such manner as they shall think fit. Because,

18. Though the *King* can do acts to bind himself and his successors, he cannot bind the *Parliament*; nor can the *Parliament* bind their successors, nor even themselves.

19. It is the *King's* prerogative to provide for the administration of justice in general, according to law.

20. In places to which the ordinary administration of justice does not extend, the *King* has a right to make extraordinary provision for it, so that such provision be

as conformable to the laws as the case will permit. Nevertheless,

21. It is the right of the *Parliament*, by its supreme power of legislation and superintendency, to adjust and settle finally the powers and modes of jurisdiction. Therefore,

22. The new jurisdictions established by the *King*, until they are confirmed by *Parliament*, are only temporary provisions.

23. The *King* has a right to grant to private persons goods or lands which have been acquired by, or have fallen to the general estate, so that such grants be agreeable to law; in which case, they are presumed to be beneficial to the community.

24. Such grants may be enquired into legally by the courts of law, and discretionally by the *Parliament*; and if they shall be found to be illegal, exorbitant, or prejudicial to the community, they may be avoided, upon a presumption that the *King* was deceived.

25. A grant upon a condition performed, or to be performed, is a grant upon a valuable consideration: if the condition is performed, the grantee becomes a purchaser for value; if it is not performed, the grant is void.

26. Jurisdiction, being a matter of public trust, and not of private property, cannot be claimed as granted for a valuable consideration.

27. If a grantee professes to hold a jurisdiction as a property yielding profit, he proves that he ought not to hold

hold it; as the profit must arise from something or other prejudicial to the public; for whose sake only jurisdictions are or ought to be created or exercised.

28. Where the *King* grants jurisdiction and lands in one grant, they are in law two separate grants, as they are to be judged by separate and distinct principles; and the grant of the one may be valid, and of the other void or voidable.

29. The rule that a *British* subject shall not be bound by laws, or liable to taxes, but what he has consented to by his representatives, must be confined to the inhabitants of *Great Britain* only; and is not strictly true even there.

30. The *Parliament* of *Great Britain*, as well from its rights of *Sovereignty* as from occasional exigences, has a right to make laws for, and impose taxes upon, its subjects in its external dominions, although they are not represented in such *Parliament*. But,

31. Taxes imposed upon the external dominions ought to be applied to the use of the people, from whom they are raised.

32. The *Parliament* of *Great Britain* has a right and a duty to take care to provide for the defence of the *American* colonies; especially as such colonies are unable to defend themselves.

33. The *Parliament* of *Great Britain* has a right and a duty to take care that provision be made for a sufficient support of the *American* governments. Because,

34. The support of the Government is one of the principal conditions upon which a colony is allowed the power of Legislation. Also, because

35. Some of the *American* Colonies have shewn themselves deficient in the support of their several Governments, both as to sufficiency and independency.

36. The Colonies ought, so far as they are able, to pay the charge of the support of their own Governments, and of their own defence.

37. The defence of the *American* Colonies, being now almost wholly a sea service, is connected with the defence of trade. Therefore,

38. Duties upon imports and exports, make the most proper funds for the expences of such defence. And

39. It being the proper business of the *Parliament* of *Great Britain*, to establish and determine the necessary regulations and restrictions of the trade of their external dominions; and the duties upon the *American* imports and exports being interwove with the regulations and restrictions of trade; the imposition of such Duties is the proper business of the *Parliament*.

40. The port duties being most properly applicable to the defence of the Colonies, it remains that the support of the Governments be provided for by internal duties.

41. The fund for the defence of the country, and those for the support of the Governments, should be kept separate; because the former relates to the general

ral whole of the country, and the latter to the particular divisions of it.

42. The fund for the defence of the country should be kept entire, because it must be applied to the defence of such parts as shall have most need of it, without any regard to the particular divisions of the country.

43. The several funds for the support of the Governments ought to be kept separate: otherwise money, raised by internal taxes in one Province, may be applied to the support of the Government of another; which seems not to be equitable.

44. Although the right of the *Parliament of Great Britain*, to raise taxes in any parts of the *British Empire*, is not to be disputed; yet it would be most adviseable to leave to the Provincial Legislatures the raising the internal taxes.

45. If the sums required were fixed, there would be no inconvenience in letting the Provincial Legislature determine the manner in which they shall be raised.

46. It will be more agreeable to the people, that the necessary internal taxes should be raised by the Provincial Legislatures; as they will be most able to consult the particular convenience of their respective provinces. Whereas,

47. It may be difficult to form a general Parliamentary tax, so as to make it equally suitable to all Provinces.

48. It would make it more agreeable to the people, though the sum to be raised was prescribed, to leave the method of taxation to their own Legislature.

49. If the Provincial Legislatures should refuse to raise the sums required for the support of Government, or should insist upon doing it by improper means, the *Parliament* might then take the business into their own hands.

50. But it is most probable that the people would acquiesce in this measure, and would soon be reconciled to it, when they observed the good effects of a certain and adequate establishment for the support of Government. For

51. The want of such an establishment has had bad consequences in many of the Governments of the *American* colonies, and has contributed more than all other things put together, to contention in the legislature, and defect of justice in the courts of law. Therefore,

52. The establishment of a certain, sufficient, and independent Civil List, is not only expedient, but necessary to the welfare of the *American* Colonies.

53. Such an appointment will tend greatly to remove all the seeds of contention, and to promote a lasting harmony and good understanding between the Government and the people.

54. The People of the Colonies ought not to object to such an appointment, because the support of Government is one of the terms upon which they have received
the

the power of Legislation ; and, if the Government is not supported, the Legislation must cease : and because

55. The Support of Government ought to be certain and sufficient ; otherwise the execution of it will be uncertain, and its powers insufficient for its purposes.

56. The Government ought not to be dependent upon the people ; and the particular means used in some of the Colonies to keep their Governments dependent, and the use which has been made of such dependency, afford ample proofs that they ought not to be so.

57. The right of a people, in a Legislative Colony, to judge of the expediency of extraordinary and contingent expences, does not conclude for the same right as to the ordinary and necessary expences ; because

58. The former must be ever uncertain, the latter may be reduced to a certainty ; the one concerns the welfare only of the Colony, the other the very existence as a separate state,

59. The subjects of the *British Empire*, residing in its external dominions, are intitled to all the rights and privileges of *British* subjects, which they are capable of enjoying.

60. There are some rights and privileges which the *British* subjects, in the external dominions, are not equally capable of enjoying with those residing in *Great Britain*.

61. The right of having a share in the Imperial Legislature, is one of these incapacities in those external dominions, where a representation is impracticable.

62. A Representation of the *American Colonies* in the Imperial Legislature is not impracticable : and therefore,

63. The propriety of a Representation of the *American Colonies* in the Imperial Legislature, must be determined by expediency only.

64. A Representation of the *American Colonies*, in the Imperial Legislature, is not necessary to establish the authority of the *Parliament* over the Colonies. But

65. It may be expedient for quieting disputes concerning such authority, and preventing a separation in future times.

66. The expediency of *American Legislatures*, does not arise from the want of their having Representatives in the Imperial Legislature.

67. If the *American Colonies* had Representatives in *Parliament*, still there would be an occasion for provincial Legislatures, for their domestic œconomy, and the support of their Governments. But

68. All external Legislatures must be subject to, and dependent on, the Imperial Legislature : otherwise there would be an *Empire in an Empire*.

69. Some external States are incapable of a Legislature ; which has often been the case of infant Colonies. Therefore,

70. The same form of Government is not equally proper to a Colony in its infant and in its mature state.

71. There may be a middle state between infancy and maturity, which may admit of a form of Government more proper for it than either of the extremes.

72. There is but one most perfect form of Government for Provinces arrived at maturity.

73. That is the most perfect form of Government for a *dependent* province, which approaches the nearest to that of the *sovereign* state, and differs from it as little as possible.

74. There is no such form of Government among the *American Colonies*. And therefore

the *American Government* is capable of having its Constitution altered for the better.

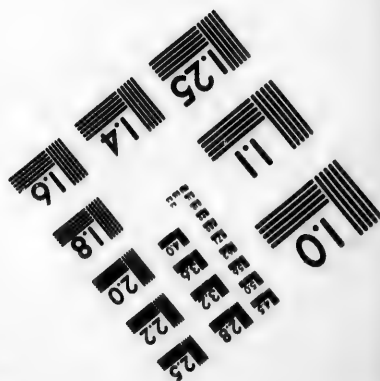
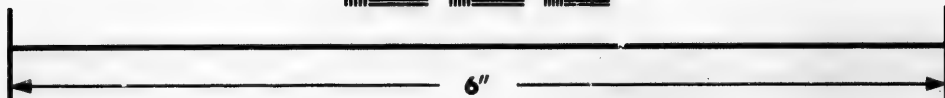
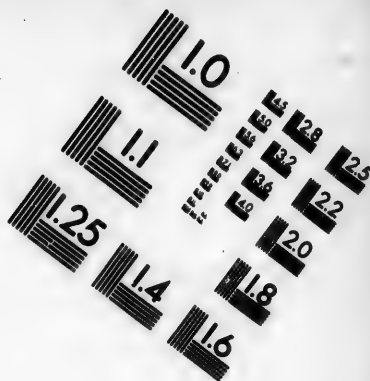
76. The Grants of the powers of Governments to *American colonies* by charters, cannot be understood to be intended for other than their infant or growing states.

77. They cannot be intended for their mature state, that is, for *perpetuity*; because they are in many things unconstitutional and contrary to the very nature of a *British Government*. Therefore,

78. They must be considered as designed only as temporary means, for settling and bringing forward the peopling the colonies; which being effected, the cause of the *peculiarity* of their constitution ceases.

79. If the *Charters* can be pleaded against the authority of *Parliament*, they amount to an alienation of the dominions of *Great Britain*, and are, in effect, acts of





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dismembering the *British Empire*, and will operate as such, if care is not taken to prevent it.

80. To make the Government of a Province the most perfect, it is necessary to regard the Extension as well as the Constitution of it.

81. A Province should be so extended, that the honourable support of the Government should not be burthenfome; and so confined, that the assembling the Legislature may not be inconvenient.

82. Where the Legislature can meet without inconvenience, the larger a Province is, the more effectual will be the powers of its Government.

83. The notion which has heretofore prevailed, that the dividing *America* into many governments, and different modes of government, will be the means to prevent their uniting to revolt, is ill-founded; since, if the Governments were ever so much consolidated, it will be necessary to have so many distinct States, as to make an union to revolt impracticable. Whereas,

84. The splitting *America* into many small governments, weakens the governing power, and strengthens that of the people; and thereby makes revolting more probable and more practicable.

85. To prevent revolts in future times (for there is no room to fear them in the present) the most effectual means would be, to make the governments large and respectable, and balance the powers of them.

86. There is no Government in *America* at present, whose powers are properly balanced; there not being in any of them a real and distinct third Legislative power mediating between the *King* and the *People*, which is the peculiar excellence of the *British* Constitution.

87. The want of such a third Legislative power, adds weight to the popular, and lightens the royal scale: so as to destroy the balance between the *royal* and *popular* powers.

88. Although *America* is not now (and probably will not be for many years to come) ripe enough for an hereditary *Nobility*; yet it is now capable of a *Nobility* for life.

89. A *Nobility* appointed by the *King* for life, and made independent, would probably give strength and stability to the *American* governments, as effectually as an hereditary *Nobility* does to that of *Great Britain*.

90. The reformation of the *American* governments should not be controlled by the present boundaries of the colonies; as they were mostly settled upon partial, occasional, and accidental considerations, without any regard to a whole.

91. To settle the *American* governments to the greatest possible advantage, it will be necessary to reduce the number of them; in some places to unite and consolidate; in others to separate and transfer; and in

general to divide by natural boundaries instead of imaginary lines.

92. If there should be but one form of Government established for all the *North American* Provinces, it would greatly facilitate the reformation of them: since, if the mode of Government was every where the same, people would be more indifferent under what division they were ranged.

93. No objections ought to arise to the alteration of the boundaries of provinces from Proprietors, on account of their property only; since there is no occasion that it should in the least affect the boundaries of properties.

94. The present distinctions of one government being more free or more popular than another, tend to embarrass and to weaken the whole; and should not be allowed to subsist among people, subject to one *King* and one *Law*, and all equally fit for one form of Government.

95. The *American* colonies, in general, are at this time arrived at that state, which qualifies them to receive the most perfect form of government, which their situation and relation to *Great Britain* make them capable of.

96. The people of *North America*, at this time, expect a revival and reformation of the *American* Governments, and are better disposed to submit to it than ever they were, or perhaps ever will be again.

97. This

97. This is therefore the proper and critical time to reform the *American* governments upon a general, constitutional, firm, and durable plan; and if it is not done now, it will probably every day grow more difficult, till at last it becomes impracticable.



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SINCE these letters went to the press, there have been published, "The Letters of Governor *Hutchinson*, &c. with the Assembly's Address, and the "proceedings thereon before the Lords Committee of "the Privy Council, and the Report to his Majesty in "Council." As this Prosecution is so very similar to that of Governor *Bernard* about four years ago, as to seem a second part of it, it cannot be improper to add to this publication the Petition against Governor *Bernard*, with his Answer thereto, the Report of the Committee of Council, and the Order of his Majesty in Council, made thereupon; that, by comparing these two Proceedings together, it may appear of what nature the spirit is that dictated these prosecutions. And it will appear, that it was not the persons of the Governors that gave offence, but the Government itself; and that the redress they prayed for must fall short of their purpose, if it did not procure for them the nomination of the Governors, as well as the appointment of the Council. Then their Government will be compleat, when there is not the least remains of Royalty left in it, and the whole is reduced to a pure *Ochlocracy*, or government by a mob. But perhaps the resolution of the Privy Council, which in both instances has declared their Petitions to be *groundless, vexatious, and scandalous*, may put an end to these expectations.

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THE
PETITION

OF

The HOUSE of REPRESENTATIVES
of *Massachusetts Bay*

TO

The KING's Most Excellent MAJESTY.

Most Gracious Sovereign,

WE your Majesty's most dutiful and faithful
subjects the Representatives of your ancient
and loyal Colony of the *Massachusetts Bay*; impressed
with the deepest gratitude to ALMIGHTY GOD, for
calling to the *British* Succession your illustrious Family;
and so firmly establishing your Majesty on the throne
of

of your Royal Progenitors; and being abundantly convinced of your Majesty's grace and clemency; most humbly implore the Royal favor, while we briefly represent our grievances, which your Majesty alone under God can redress.

We are constrained in duty to your Majesty, and in faithfulness to our Constituents, to lay before your Majesty our complaints of his Excellency Sir *Francis Bernard*, Baronet, your Majesty's Governor of this Colony, whose whole Administration appears to have been repugnant not only to your Majesty's service, and the welfare of your subjects in the Colony, but even to the first principles of the *British* Constitution.

1. From his first arrival here, he has in his Speeches and other public Acts treated the Representative body with contempt.

2. He has in his public Speeches charged both Houses of the General Assembly expressly with oppugnation against the Royal Authority; declaring that they had left Gentlemen out of the Council only for their fidelity to the Crown.

3. He has from time to time indiscreetly and wantonly exercised the prerogative of the Crown, in the repeated negative of Counsellors of an unblemished reputation, and duly elected by a great majority; some of them by the unanimous suffrage of both Houses of Assembly.

4. He has declared that certain seats at the Council board shall be kept vacant, 'till certain Gentlemen, who are his favourites, shall be re-elected.

5. He has unconstitutionally interfered with and unduly influenced elections, particularly in the choice of an Agent for the Colony.

6. He has abruptly displaced divers Gentlemen of worth, for no apparent reason, but because they voted in the General Assembly with freedom and against his measures.

7. He has in an unwarrantable manner taken upon himself the exercise of your Majesty's Royal Prerogative, in granting a charter for a College; contrary to an express vote of the House of Representatives, and without even asking the advice of your Majesty's Council.

8. He has practised sending over depositions to the Ministry, privately taken against Gentlemen of character here, without giving the persons accused the least notice of his purposes and proceedings.

9. He has very injuriously represented your Majesty's loving subjects of this Colony, in general, as having an ill temper prevailing amongst them; as disaffected to your Majesty's Government, and intending to bring the authority of Parliament into contempt. And, by such false representations, he has been greatly instrumental, as this House humbly conceive, in exciting jealousies, and disturbing that harmony and mutual affection which before happily subsisted, and we pray God may again subsist, between your Majesty's subjects in *Great Britain* and *America*.

10. He has, in his letters to one of your Majesty's Ministers, unjustly charged the majority of your Ma-

jefty's faithful Council in the Colony with having avowed the principles of opposition to the authority of Parliament, and acted in concert with a party from whence such opposition originated.

11. He has also, in his letter to another of your Majesty's Ministers, falsely declared that a plan was laid, and a number of men actually inrolled in the town of *Boston*, to seize your Majesty's Castle *William*, in the harbour of the same, out of your Majesty's hands.

12. Such Representations of the state and circumstances of this Colony, from a Gentleman of the highest trust in it, will of necessity be received with full credit, till they are made to appear false. And in consequence, thereof, your Majesty's true and loyal subjects have suffered the reproach as well as other hardships of having a military force stationed here, to support your Majesty's authority, and the execution of the laws; which measure has been approved of by your Majesty's two Houses of Parliament, as appears in their resolutions, That the town of *Boston* has been in a state of disorder and confusion; and that the circumstances of the Colony were such as required a military force for the purposes abovementioned.

13. Having been a principal instrument, as we apprehend, in procuring this military force, your Majesty's said Governor, in an unprecedented manner, and as though he had designed to irritate to the highest degree, ordered the very room which is appropriated for the meeting of the Representatives of the General Assembly,

sembly, which was never used for any other purpose, and where their Records are kept, to be employed as a barrack for the common soldiers: and the centinels were so posted, as that your Majesty's Council, and the Justices of the court of common law, were daily interrupted, and even challenged, in their proceeding to the business of their several departments.

14. He endeavoured, contrary to the express design of an Act of Parliament, to quarter your Majesty's troops in the body of the town of *Boston*, while the barracks, provided by the Government at the Castle, within the Town, remained useless; and, for purposes manifestly evasive of the said Act, he unwarrantably appointed an officer to provide quarters for the troops, otherwise than is therein prescribed.

15. After having dissolved the General Assembly at a most critical season, and while they were employed in the most necessary and important business, he arbitrarily refused to call another for the space of ten months, and until the time appointed in the Royal Charter for the calling a General Assembly, against the repeated and dutiful petitions of the people.

16. It appears by his letters to the Earl of *Hillsborough*, your Majesty's Secretary of State, that he has endeavoured to overthrow the present constitution of Government in this Colony, and to have the people deprived of their invaluable Charter Rights, which they and their ancestors have happily enjoyed under your
Majesty's

Majesty's administration, and those of your Royal Predecessors.

17. By the means aforesaid, and many others that might be enumerated, he has rendered his Administration odious to the whole body of the people, and has entirely alienated their affections from him, and thereby wholly destroyed that confidence in a Governor, which your Majesty's service indispensably requires.

Wherefore we most humbly intreat your Majesty, that his Excellency Sir *Francis Bernard* Baronet, may be for ever removed from the Government of this Province: and that your Majesty would be graciously pleased to place one in his stead, worthy to serve the greatest and best Monarch on earth.

And the Representatives of the Colony of *Massachusetts's Bay*, as in duty bound, shall ever pray.

In their name, and by their order, signed

THOMAS CUSHING, Speaker.

THE

THE
A N S W E R
O F

SIR FRANCIS BERNARD, Bart.
Governor of his MAJESTY'S Province of
MASSACHUSET'S BAY,

T O

The Complaint preferred against him by the House
of Representatives of the said Province, now depend-
ing before his Majesty in Council.

THIS Respondent protesting against the uncertain-
ty, generality, irrelevancy, and insufficiency of
the said complaint, and against his being required to
make any unnecessary, superfluous, or impracticable
proofs, particularly proofs of the negative of such
assertions in the said complaint as are not supported by
any evidence, and by their generality and want of par-
ticular allegations are incapable of negative proof;
and also protesting against the unfair practices used by
the complainants, or at least by the Speaker and Clerk
of the said House, to deprive him of the benefit of
such evidence, both written and verbal, as was to be
had

had only at *Boston*, by refusing to give him a copy of the said complaint, from the 27th day of *June*, 1769, when the said complaint passed the house, unto the 27th day of *July*, being but three days before the day fixed for his departure for *England*, although he frequently applied to the Speaker of the House for such copy, of the truth of which he is ready to make oath: to the complaint, or to such part thereof as is material for him to answer to, answereth as followeth:

And, first, the Respondent begs leave to observe of the complaint, that it had its origination in a resentment against the Respondent, for his being charged with certain orders of his Majesty relating to the House of Representatives, and his declaring his intention to obey such orders. This will appear from the Journals of the House of Representatives, where it will be seen, that on *June* 21st, 1768, the Respondent sent a message, inclosing an extract of a letter from the Secretary of State to him the Respondent, signifying his Majesty's pleasure, That he should require the House to rescind a resolution of a former House, and declare their disapprobation of the same. On *June* 23d, the House desired the Respondent would give them a copy of the other part of the Secretary of State's letter. On *June* 24th, the Respondent sent a copy of the other part of the letter, by which he was ordered, in case of refusal, to dissolve the Assembly; and said, that, if they obliged him to it, he must obey his orders. On *June* 30th, the House passed a vote, that they would not rescind, &c. and passed an
answer

answer to the Respondent to that purpose; immediately after which, they appointed a committee to prepare a petition to the king to remove the governor. The petition being ready prepared, was immediately reported and read; and upon debate, it being objected that there was no proof of the facts alledged, the petition was re-committed, and the committee was ordered to bring evidence in support of divers articles. Thus it rested until a new assembly met in *May*, 1769, when this complaint was revived, with some little alteration, and some additional articles arising from new facts; and notwithstanding it had been before rejected for want of proof, it was now admitted without any proof, and passed the house the 27th day of *June*, 1769. It has been since circulated throughout *America* and *Great Britain*, in news-papers, magazines, and pamphlets; it has been commented upon, and argued from, as true, in different papers; and the Respondent has been called upon, by anonymous writers, to answer this complaint before the public, whilst he was endeavouring to obtain a hearing of it before the King in Council, and the agent for the Complainants was doing all he could to prevent it, under a pretence of waiting for proofs.

1. And the Respondent, further answering, saith, That the first article is notoriously untrue, it being well known to all who are acquainted with the government of *Massachusetts's Bay*, that from the time of the present governor's (the Respondent's) entering upon that government, which was in *August*, 1760, until the oppo-

sion made to the stamp-act, which began in the year 1765, a very good understanding and agreement of sentiments and actions between the governr. and the assembly, in both its branches, continually prevailed; of which the Journals of the House afford many pregnant proofs. But, after the opposition to the Parliament was adopted by the House of Representatives, it became impossible for the Respondent, or any governor, to do his duty and preserve his popularity.

2. The Respondent admits, that he did declare that the General Assembly left gentlemen out of the Council only for their fidelity to the Crown; and if this is to be deemed oppugnation against the royal authority, he admits this article to be true. And to justify such declaration he observes, that, upon the election of counsellors in *May* 1766 (which was about a month after they had received advice of the repeal of the stamp-act), the majority of the General Assembly turned out the lieutenant governor (who was also chief justice of the province), the secretary, two other judges of the superior court, and the attorney general, all of them men of irreproachable characters, and high estimation among the people. There was no accounting for the depriving the government of the service of men of such high offices, and known abilities and integrity, but from an intention to lower the King's authority in the government, and reduce the royalty of it to mere form, and vest all the real power in the people. That this was and is still the intention, has been since made plain by
further

further proceedings in subsequent elections, in which every counsellor who has been known, believed, or even suspected to be disposed to support the authority of the King and Parliament of *Great Britain*, or the royal rights of the provincial government, has been turned out of the Council. The Respondent begs leave to refer to a list of counsellors who have been thus turned out at the four last elections, which, by an enquiry into the characters of the persons from those who are acquainted with the province, will fully prove the assertions above mentioned.

3. The Respondent admits, that, since the exclusion of the lieutenant governor, secretary, judges, and attorney general, from the council, he has repeatedly used the right given to the governor by the charter, of negating persons elected for counsellors, and returned to him for his approbation; but he denies that he has acted therein indiscreetly or wantonly, or upon any other motive than that of promoting the King's service. He has, from time to time, signified to his Majesty's Ministers the principles upon which he formed his conduct in this respect, and has had the honor to have such conduct approved of by his Majesty, as was signified to him by the Earl of *Shelburne*, at that time one of his Majesty's principal secretaries of state, by his letter dated *Sept. 17, 1767*, which was after the second time of his exercising his negative; from which letter he begs leave to insert the following words:

“ I have the pleasure to signify to you his Majesty’s
 “ approbation of your conduct, and to acquaint you,
 “ that he is graciously pleased to approve of your hav-
 “ ing exerted the power lodged in you by the constitu-
 “ tion of the province of *Massachusetts Bay*, of nega-
 “ tive counsellors in the late elections, which appears
 “ from your several letters to have been done with due
 “ deliberation and judgement.”

4. The Respondent denies this article to be true, so far as it relates to the enforcing the re-election of his favorites; for he has no favorites in respect to the government, but such as have recommended themselves by fidelity to the King, and ability to serve him. In this light the lieutenant governor and the secretary may be considered as his favorites; and if such declaration was made, it was in favor of them and them only; and he believes he did make such declaration upon the following account. Upon the exclusion of these two gentlemen from the Council (of which they had been members for many years, and by their particular functions, as as well as their knowledge of the public business, were become almost necessary to that body) upon enquiry into the constitution of the present government, it appeared from the usage under the former charter, from considerations previous to the granting the present charter, from the words of the charter itself, and from the practice of the first year after the opening the charter, that the lieutenant governor and the secretary had a right to seats and voices in the Council in virtue of their offices,

offices, and without being elected thereto, and did actually enjoy such right for one year as aforesaid. But upon the election of a new Council at the end of the first year, the assembly elected the lieutenant governor and the secretary among the twenty-eight elective councillors, instead of permitting them to be superadded to the elective counsellors, as was designed by the charter, and practised the year before. The lieutenant governor and secretary acquiescing in this, probably from their unwillingness to dispute with the assembly, upon whom they were dependent, submitted to take their seats as elected counsellors, instead of official members of the Council. And this method prevailing ever after, the King has, by these means, been deprived of the service of his lieutenant governor and secretary, the nomination of whom he had reserved to himself, in his council, where it appears to have been intended they should have seats in virtue of their offices. And great detriment has arose to his Majesty's government by their being excluded the Council at particular times, when they have been most wanted, as for late years has been very observable. The Respondent therefore having discovered this usurpation, and finding it too much confirmed by time, for him of himself to undertake to restore the lieutenant governor and secretary to their rights, did transmit an account of it to the King's Ministers, and did mention the same to the Council of the Province, or some of them; at the same time declaring, that as the lieutenant governor and the secretary had an inherent right from their offices

to seats in the Council, though they had usually been reckoned amongst the twenty-eight elected, he should not suffer their seats among the twenty-eight to be filled up by other persons till they were restored to their official seats without the twenty-eight. This he did, in order to leave it open to the assembly to restore them to their seats in the usual way at any time when they should see the impropriety of their being excluded.

5. The Respondent says, That he believes there never was a governor that less interfered with elections than he has done; so that he knows not what to refer this charge to, unless it is to his recommending a provincial agent in the year 1765. This he did, and certainly had a right to do, as the provincial agent is the agent of the whole general court, of which the governor is a part, and must be consented to and commissioned by the governor before his appointment is complete. The gentleman he recommended was accordingly chosen, and served the province for two years, and was the most able and respectable agent that the province ever had.

6. The governor of *Massachusetts Bay* has no power to displace civil officers, without the consent of the Council; and hence it is, that many persons hold their offices in that province, who ought to have been displaced long ago. He has indeed a free power over military officers; but has made very little use of it, except in superseding some few commissions of persons who

who professed and abetted such principles as made them very unfit to have military commands under the King.

7. The Respondent never had any doubt but that he had a right to grant charters of incorporation under the King's seal, of which he is the keeper, as is practised by all other royal governors in *America*. And he did once, some years ago, order a charter to be made out for establishing a collegiate school in the extreme parts of the province, upon the petition of divers respectable persons inhabitants of the said parts, who were ready to endow the said school. But understanding that the proposed charter gave umbrage to the college at *Cambridge* near *Boston*, he, upon that account only, and not out of any doubt of his power to grant such a charter, or the reasonableness and propriety of the charter prayed for, put a stop to the same being issued: and this is the only charter that was ever agitated before him since he has been governor of that province.

8. The Respondent knows not what depositions are here referred to, except it be those which it may be supposed he has transmitted to his Majesty's Ministers, in obedience to his Majesty's commands, signified to him for that purpose. And he is sorry to say, that he has not done so much in that respect as may have been expected of him: for when he received such commands, he found the intimidation which the faction by their former outrages had raised in *Boston* so great and universal, that there was a general unwillingness in people of all kinds to give a formal testimony against any of the

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the factious party, even of facts which they made no scruple to declare their knowledge of in the course of common conversation. And therefore, having no power to oblige people to give testimony, and finding it impracticable to procure voluntary evidence, he could not execute the King's commands with that punctuality with which he has always been desirous to distinguish himself in all acts of duty.

And here it may be proper to observe, that the preceding article, and all the following articles, are charges against him for doing acts which were dictated to him either by the duty of his office, or by his Majesty's instructions given under his sign manual, or by his special commands signified by his secretary of state. And in all cases, where the Respondent is charged with acts which were known to be done in obedience to his Majesty's instructions, or his special orders, he cannot consider himself to be chargeable with such acts; but such charge must be understood to be, and to be intended to be, directed immediately against his Majesty's administration. Under this rule he will proceed to consider the following articles.

9. It is the duty of a governor to report to his Majesty all transactions by which the honour of his crown, the authority of his government, and the welfare of the province may be affected. The Respondent has not only had this duty prescribed to him by his general instructions, but has been often reminded of it in the letters of his Majesty's secretaries of state. In doing
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this, he has shewn a disposition the very contrary to that of misrepresenting his Majesty's loving subjects of the Colony in general, and has endeavoured to apologize for them where he could do it, by drawing a line between the few who have been authors of the present troubles, and their deluded followers, and distinguishing between the wickedness of the one, and the credulity and intimidation of the other. He has always had a most earnest desire to remove jealousies, and restore that harmony and mutual affection which ought to subsist between *Great Britain and America*. He used all the means in his power to prevent a breach of a good understanding between the two countries; and for that purpose, when the stamp-act was first agitated, notwithstanding he had reason to believe that the Bill was strongly adopted by the Ministry, he wrote a letter to the Secretary of State, urging many reasons which occurred to him, against its passing into a law, with a freedom which nothing but a consciousness of his integrity, a sense of his duty to both countries, and a desire to prevent any uneasiness between them, could have supported. Afterwards, when the repealing the act was in contemplation, he gave his testimony for the repeal, both in his public and his private letters. He has been always ready to join with the Assembly in any measures for reconciling the two countries, which were consistent with his duty. But of late he has seen no opening for it; for, by the convulsions which happened upon account of the stamp-act, and their consequences, the management of the

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public affairs of the Province has got into the hands of a party whose principles and practices are the very reverse of those of conciliation. *See, Art. 10. p. 101.*

10. The Respondent's report of the proceedings of the Council, from whence their opposition to the authority of Parliament has been inferred, was fully supported by authentic papers. And though it has been since made a subject of argument, yet not one material fact, alledged by him, has been positively denied. *Idem.*

11. The account of a design to seize *Castle William* is expressly mentioned, not to be related as a certain fact, but only as reported and believed. Under such circumstances, it would have been an inexcusable neglect of duty in the Respondent, not to have informed the Secretary of State of a credited report of so interesting a nature. But, as he had not positive proof of the fact, he did not accuse any person by name. The truth is, he had intelligence, which he could not make a public use of, sufficient to induce him to believe that report then, and has since had occasion to confirm himself in such belief; but he has not been able to obtain positive proof of the fact, for the reasons given in his answer to the eighth Article. *Idem.*

12. This is one of those Articles beforementioned, which passes by the Respondent, and attacks the Administration and the two Houses of Parliament; charging the first with ordering troops to be stationed at *Boston*, and the two last with passing resolutions without sufficient grounds to justify such proceedings. Whereas

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it is notorious, that the sending troops to *Boston*, and the resolutions of the two Houses of Parliament, were founded upon undoubted and indisputable facts, supported by a variety of evidence, drawn for the most part from authentic papers, and in no way depending upon meer sayings and opinions of the Respondent.

13. The preamble of this Article, whereby the Respondent is charged with being a principal instrument in procuring the military force which was sent to *Boston*, has since been falsified by the party publishing the Respondent's letters, from some of which it appears, that he absolutely refused to apply for troops, unless the Council would join with him in it; which they refusing to do, he never applied for troops. As for the charge itself, the fact was this: Having received his Majesty's orders to take every necessary step for the accommodation of his troops at *Boston*, he applied to the Council, to the Select-men of the town, and to all the Justices in the town, whom he called together for that purpose, being all the persons that could be pointed out by Act of Parliament for quartering soldiers, severally and separately desiring them to provide quarters for the soldiers. This they all refused to do; so that when the Commanding Officer found himself obliged to land two regiments at *Boston*, there were no quarters for them. Whereupon the Commanding Officer applying to the Respondent to provide a covering for one of the regi-

ments, who had no camp-equipage with them, until they could hire buildings at the King's expence to make barracks of; the Respondent assigned to them several rooms in the town-house, which were not then in use, among which was the Representatives chamber; and there the regiment remained, without any inconvenience to the public, or any persons whatsoever, until barracks were provided for them. What enhances the falsity and virulence of this charge is, that the party who has preferred it, knew that the Respondent acted in this business under the King's special orders, and that his Majesty has since been pleased to signify his full approbation of his conduct, under the difficulties that were continually thrown in his way. And yet they have had the boldness, in this indirect manner, to arraign his Majesty's Administration for issuing orders, with which the Respondent had nothing to do but to obey.

14. This Article is of the same complexion with the preceding, but much more false and prevaricating. The fact upon which it is founded is this: The King ordered two regiments, to be sent from *Ireland*, to be landed at *Boston*; and also ordered two other regiments to be sent from *Halifax* to *Boston*. The two regiments from *Halifax* arrive first; and the Commanding Officer, signifying to the Respondent that he had orders to station both those regiments at *Boston*, demanded quarters. The Respondent consulted the Council, and by their
advice

advice applied to the Select-men of the town, and then to the Justices of Peace, and last of all to the Council themselves: but they all refused to assign any quarters to the two regiments, under different pretences; the principal of which was, that they ought to be quartered at the castle, upon an island, distant from the town of *Boston* three miles by sea and seven miles by land, where there were barracks that would hold only one regiment, and that but inconveniently, as has been since proved. And though the impossibility of quartering four regiments in barracks that could hold but one, and the impropriety of quartering troops in an island distant from *Boston*, which were expressly ordered to be stationed at *Boston*, were urged again and again, they still persisted in refusing quarters: wherefore the Commander in Chief found himself obliged to hire buildings, and fit them up for barracks, at the King's expence, for three of the regiments, after having assigned the barracks at the castle for the other regiment. And endeavours were used to defeat even this, the only method left for executing the King's commands; for it was given out by the faction, that if any soldiers were put into such barracks, the Officers commanding such soldiers would be prosecuted for quartering soldiers without the interposition of a Magistrate, contrary to the Mutiny Act, and, being convicted thereof by two Justices, would incur the penalty of being cashiered. To prevent this abuse of the Act, the Respondent, at the request of General Gage,

Commander

Commander in Chief, granted a commission to an Officer of his to place the soldiers in the barracks, which should be provided for them at the King's expence. And this is the fact upon which the charge against the Respondent, for evasively appointing an Officer to provide quarters for the troops otherwise than is prescribed by the Act, is founded. The Respondent is sorry that he is obliged, by the designed generality of the charge, in his defence thereto, to state such a detail of untruths, prevarications, and contempt of law and authority, in the promoters of the accusation against him: but it is all to be accounted for by the propagation of one maxim, which originated with the faction, and has lately been adopted by the House of Representatives, That the King has no right to order any of his troops into any of the *American Provinces*, without being first authorized so to do by an Act of the Provincial Assembly. And from this pretension the transition is easy to the presumption of petitioning the King to punish an Officer of his, for obeying his commands, and assisting to carry his orders into execution.

15. The facts, upon which this Article is founded, are these: In *June*, 1768, while the Assembly of the Province was sitting, the Respondent received a letter from the Secretary of State, signifying the King's pleasure, that he should require of the House of Representatives to rescind a resolution passed in a former House, and to declare their disapprobation of it; and, if they should

should refuse to comply, that he should immediately dissolve them. He communicated to the House the first part of the letter, containing the requisition; and upon their desiring a copy of the whole letter, he communicated to them the other part of the letter, containing the provisional order to dissolve them. The House took nine days to consider of this requisition; and in that time passed all the necessary public bills, and particularly the Tax-bill, which the Governor reminded them of passing, previously to their giving their answer; informing them, That, if he should be obliged to dissolve them, he should not be at liberty to call another Assembly till he received his Majesty's commands for that purpose. The House at length giving their answer, by which they refused to comply with his Majesty's requisition, he dissolved them, as he was in duty bound to do. And having received his Majesty's commands not to call a new Assembly until the *May* following, being the time appointed by the charter he obeyed that order also. These are the true facts upon which this Article is founded; and they were all known to the Complainants at the time when they presumed to petition his Majesty to punish a servant of his, for what he did wholly in obedience to his Majesty's express commands.

16. It is the undoubted duty of a Governor to accompany his reports of interesting proceedings in his Province, with his own opinion of them; and it is indispensable,

pensable, when he is giving an account of disorders in his government, to endeavour to trace the causes of them, and to point out the remedies. In the Province of *Massachusetts Bay*, when civil authority was reduced so low as to have nothing left but the form of a government, and scarce even that, an enquiry into the causes of so great a weakness in the governing powers was unavoidable; and there was no entering upon such an enquiry, without observing upon the ill effects of that part of the constitution of that government, whereby the appointment of the Council is left to the people, to be made by annual election; and yet the Royal Governor, in all Acts of prerogative, is subject to the controul of the Democratical Council. This solecism in policy has been as hurtful in practice as it is absurd in theory, and is the true cause of the extreme imbecillity of the power of the crown in this government, at times when the exertion of it is most wanted. This is not an observation of a new date; it is of many years standing; and the avowal of the Respondent's opinion on this occasion, is not to be reckoned from the date of his letters to the Earl of *Hillsborough*: he has made no scruple to declare his sentiments upon this subject, ever since he has felt the effects which the popular constitution of the Council has had upon the Royalty of the government, which is above three years ago; within which time, he has seen the King deprived of the service of every man at the Council Board, who has had

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resolution

resolution enough to disapprove the opposition to the authority of the King and the Parliament, and their supremacy over the *American Colonies*. This, and this only, is the foundation of the charge of his endeavouring to overthrow the charter; whereas his real desire has been, that the charter should have a more durable stability, by means of a necessary alteration, without which, he is persuaded it cannot have a much longer duration; as the abuse of the appointment of the Council now prevailing, must oblige the Parliament to interfere sooner or later. And therefore he is persuaded, that, in avowing this opinion, he has acted not only as a faithful servant of the King, and a true subject of *Great Britain*, but also as a real friend of *Massachusetts Bay*, whose true interest it is, to have its government so confirmed and established, that it may not be liable to be continually disturbed and disgraced by factious and designing men, as it is at present.

17. The Respondent denies, that by the means mentioned in the aforesaid complaint, or by any other means, he has rendered his Administration odious to the whole body of the people. He denies, that the opinion of the whole people of that Province can now be taken and ascertained, labouring as it does at present, under the baneful influence of a desperate faction, who, by raising groundless fears and jealousies, by excluding one part of the people, and intimidating the other part, has destroyed all real freedom, not only of action, but even of sentiment and opinion. But the

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Respondent

Respondent doubts not but that his administration has been approved of by the generality of the best and most respectable men in the Province; and assures himself, that notwithstanding that, in the course of the late disputes, he has been obliged by his duty to give his testimony against some popular prejudices, when the present infatuation shall cease, and truth and reason shall be allowed to interpose, he shall be acknowledged to have been a faithful servant of the King, and a real friend of the people. In the mean time, having been honoured with his Majesty's approbation of his whole conduct, and that of the two Houses of Parliament of some principal parts of it, he shall leave it to the Province of *Massachusetts Bay* to do him justice at their own time; and shall commit himself to the disposal of his Majesty, as it shall be thought best for his service, in perfect confidence, that he shall not suffer for sacrificing his interest to his fidelity.

And the Respondent, for proof of such allegations in this answer as shall require it, begs leave to refer to his Majesty's instructions; to the letters of his Secretaries of State and Commissioners for Trade and Plantations, directed to him the Respondent; to the Acts of the Council of the Province; to the Journals of the House of Representatives; to his own letters to his Majesty's Secretaries of State and Commissioners for Trade and Plantations (which letters, being wrote without any probable view of their being used for this purpose, he humbly submits ought to be admitted as evidence, especially

pecially of his intention and meaning, upon which great part of the complaint against him is made to depend); and to such other evidence as he shall be able to procure here, after having been, by the practices of the managers of the accusation against him, prevented having the benefit of such evidence as was to be had in the Province of *Massachusetts Bay*.

THIS business was brought on to an hearing before the committee of the Privy Council on the 28th of *February* 1770; when the Governor attended with counsel, prepared to support with evidence all the allegations contained in his answer, which stood in need of proof. But the Agent of the Assembly having not made any proof of the articles of the Complaint against him, or any of them, and then declining to proceed upon the complaint, the Lords of the Council thought it unnecessary for the Governor to enter into the particulars of his justification, as the charge against him remained wholly unsupported; and therefore they proceeded to give their judgement thereon, which was confirmed by the King in Council, in manner and form hereafter mentioned. It would be needless to enter into all the particulars of the Governor's defence: nevertheless, it may not be amiss to give such part of the evidence as tends to shew the terms he stood upon with the people before the Stamp Act. This unfortunate Act rendered him, from a very popular, a very unpopular Governor. He was known to disapprove of the Act, and ready to join in any legal measures to get rid of it; yet he thought it an inexcusable duty; and his orders were peremptory to support it, whilst it remained an Act of Parliament. This was an unpardonable crime at that time, and, with its consequences,

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and the improvements made of them by the enemies of Government, was the whole cause of the great change made in the people with regard to him. The evidence which was proposed for this purpose, was extracted out of the votes of the House of Representatives; and was as follows:

Extracts from the Journals of the House of Representatives of *Massachusetts Bay*, 27 February 1762.

Resolved, That in consideration of the extraordinary services of his Excellency Governor *Bernard*, there be granted to him, his heirs and assigns, the island of *Mount Desert*, lying on the north-eastward of *Penobscot Bay*: and that a grant thereof, to be laid before his Majesty for his approbation, be signed by the Secretary and Speaker, on behalf of the Two Houses.

Sent up for concurrence.

This was afterwards concurred by the Council,

27 February, 1762.

Preamble of an Address of the House to the Governor.

As your acquaintance with the circumstances of this Province, and your conduct in consequence thereof, has left us no room to doubt of your hearty desire to promote its welfare and prosperity——

We the Representatives, &c.

24 April,

24 April, 1762.

The Speech of the Governor, at the proroguing the
General Court.

Gentlemen of the Council, and Gentlemen of the
House of Representatives,

The unanimity and dispatch with which you have
complied with the requisition of his Majesty, require my
particular acknowledgement ; and it gives me additional
pleasure to observe, that you have therein acted under
no other influence than a due sense of your duty, both
as members of a general Empire, and as the body of a
particular Province.

It will always be my desire, that freedom and inde-
pendence should prevail in your councils ; and that the
whole credit of your proceedings therein should be
placed to your own account. It will be a sufficient
honor for me to preside over a people, whose motives
to loyalty and public spirit arise from their own breasts.

Fra. Bernard.

1 June, 1762.

Extract of an Address of the House, in Answer to
the Governor's Speech.

We beg leave to give your Excellency the highest
and fullest assurance, that as you make the illustrious
example of your Royal Master the basis of your admi-
nistration ;

nistration, it will be strongly supported by a grateful,
as well as free and loyal people.

15 June, 1762.

The Speech of the Governor, at the proroguing the
General Court.

I cannot dismiss you, without expressing my satisfaction at the ready and easy dispatch of the business of this session; which hath fully made good the assurances you gave at the beginning of it.

I cannot doubt but that every future session will contribute to improve the harmony now subsisting in the General Court, and afford frequent instances of the great advantages arising therefrom.

Fra. Bernard.

18 January, 1763.

Extract of a Message from the House to the Governor.

These privileges we shall ever pray may be continued to us, especially under your Excellency's Administration; whose honor and prosperity we ardently wish for, and shall for ever consider, as closely and inseparably connected with the happiness of this Province.

14 Feb.

14 February, 1763.

Extract of an Address of the Council and House to the Governor, on the signing the Preliminaries of the Peace.

We thank your Excellency for your readiness to concur with us in all proper measures, to make this happy event conducive to the prosperity of the Province.

We sincerely wish that you may be long continued at the head of the Government, promoting that interior peace, upon which our prosperity so much depends.

31 May, 1763.

Extracts of an Address of the Council and House, to the Governor, on the Conclusion of the Peace.

We are sensible of your Excellency's services during the war; but as the peaceful settled state of the country will give your Excellency more opportunities of serving it than were then to be expected, we doubt not but that your Excellency will improve the same to the best purposes. We hope your Excellency will still have the honor to be distinguished in *England*, for your attachment to our interest, which is inseparably connected with that of the Mother Country; and have further public testimonies from a most grateful people.

We congratulate your Excellency on that unanimity which your Excellency recommends, and which was never greater in the Province than at this time. We doubt not, but as we are delivered from foreign war, we shall be equally free from intestine division : and now, that peace is diffused throughout the vast circle of the *British* dominions, it will continue and prevail in an especial manner in the councils of this Province, under your Excellency's wise and impartial Administration.

16 June, 1763.

Extract of a Speech of the Governor, at the proroguing
the General Court.

I cannot part with you, without expressing the great satisfaction I have had in observing the unanimity, which you assured me of at the beginning of the session, has so fully evinced itself throughout all its proceedings.

The ease which arises from thence to yourselves; the advantages which accrue to your Constituents; and the credit which is thereby reflected upon the whole Province, will be continual motives for your preserving that equanimity and moderation which now so happily prevail among you.

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8 June,

8 June, 1764.

Extract of a Message of the House to the
Governor.

The House humbly and gratefully acknowledge your Excellency's paternal care of all the interests of this Province, more particularly in the measures your Excellency has from time to time recommended, for the forwarding the settlements in the Eastern parts of the Province.

N. B. In this session began the opposition to the Acts of Parliament, for laying a duty on sugar, molasses, &c.

10 January, 1765.

Extract of the Speech of the Governor, at the opening
the Session.

I have, in pursuance of your request made to me last session, recommended to the favor of his Majesty's Ministers the Petition which you prepared to be presented to the House of Commons. And I flatter myself that these representations will have success, as they must receive great weight from the dutiful manner in which they are formed. I shall not neglect any other opportunity to promote the real welfare of this Province, consistently with its subordination to the Kingdom of *Great Britain*, and the common interest of the whole Empire.

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12 January,

12 January, 1765.

Extracts of the Address of the Council and House to the Governor, in answer to his Speech.

We are much obliged to your Excellency, for recommending to the favor of the Ministry our Petition to the House of Commons. We flatter ourselves the Representations therein made, will have success, not only from the dutiful manner in which they are formed, but from the necessary connexion there is between the interest of the nation, and the success of that Petition; it being a demonstrable truth, That the national interest will be best promoted and secured by encouraging the trade of the Colonies.

We are also much obliged to your Excellency for your kind declaration, that you shall not neglect any other opportunity to promote the real welfare of this Province, consistently with its subordination to the Kingdom of *Great Britain*, and the common interest of the whole Empire. It is in consistence with these, that we hope for your Excellency's endeavours to promote the real welfare of this Province: and in these endeavours our inclinations conspire with our duty, to give your Excellency our best assistance.

At the Court at *St. James's*, the 14th Day of
March, 1770.

(L. S.) P R E S E N T,

The KING's Most Excellent MAJESTY.

Lord President.	Earl of <i>Jersey</i> .
Lord Privy Seal.	Earl of <i>Bristol</i> .
Duke of <i>Queensberry</i> .	Earl of <i>Hillsborough</i> .
Duke of <i>Ancaster</i> .	Viscount <i>Weymouth</i> .
Duke of <i>Newcastle</i> .	Viscount <i>Falmouth</i> .
Lord Steward.	Lord <i>North</i> .
Lord Chamberlain.	Lord <i>Le Despenjer</i> .
Earl of <i>Denbigh</i> .	Lord <i>Pelham</i> .
Earl of <i>Litchfield</i> .	Sir <i>Gilbert Elliot</i> .
Earl of <i>Rockford</i> .	Sir <i>Edward Hawke</i> .

WHEREAS there was this day read, at the Board, a Report from the Right Honourable the Lords of the Committee of Council, for hearing complaints from the Plantations, dated the 7th of this instant, in the words following; *videlicet*,

" Your Majesty having been pleased, by your orders
" in Council, of the 25th of *October* and the 29th
" of *November* last, to refer unto this Committee
" the

“ the Petition of the House of Representatives of
 “ *Massachusetts Bay*, containing divers Charges
 “ against Sir *Francis Bernard*, your Majesty’s
 “ Governor of that Province; and also a Petition
 “ of the said Sir *Francis Bernard*, praying, That
 “ an early day might be appointed, to examine the
 “ several articles of complaint exhibited against
 “ him; and likewise a Petition of *Dennis De Berdt*,
 “ Agent for the House of Representatives of the
 “ said Province, praying, That due time and op-
 “ portunity might be allowed to make good the
 “ allegations contained in the complaint against
 “ Governor *Bernard*:—The Lords of the Commit-
 “ tee, in obedience to your Majesty’s said order of
 “ reference, did, on the 21st of *December*, take
 “ the said several Petitions into consideration; and
 “ it appearing, by the aforementioned Petition of
 “ Sir *Francis Bernard*, that, a few days before
 “ he embarked for *England*, he obtained a copy of
 “ the charges alledged against him, and was pre-
 “ pared to make his answer thereto; their Lord-
 “ ships thought proper to appoint *Saturday* the
 “ 27th of *January* to hear the same: but your
 “ Majesty having been pleased, by another order
 “ of Council of the 19th of *January*, to refer unto
 “ this Committee a further Petition of the said
 “ *Dennis De Berdt*, praying, That the trial of the
 “ complaints against Governor *Bernard* might be
 “ deferred some months, in order that due time
 “ may

" may be allowed for obtaining from such a dis-
 " tance the proofs requisite to confirm the several
 " charges urged against the said Governor—the
 " Lords of the Committee did, on the 20th of the
 " said month, take the said Petition into conside-
 " ration: and being attended as well by the said
 " *Dennis De Berdt*, the Agent for the Complai-
 " nants, as also by the said *Sir Francis Bernard*,
 " heard what each of them had to offer in sup-
 " port of their respective Petitions; and, upon consi-
 " deration thereof, their Lordships were pleased to
 " allow some further time, and to order that the
 " said Complainants should be peremptorily heard
 " at this Committee on *Wednesday* the 28th of *Fe-*
 " *bruary*; and to that end their Lordships directed
 " all persons concerned therein, to come prepared to
 " be heard as on that day; and the Committee
 " being met accordingly, another Memorial, on
 " the part of the Agent for the Complainants,
 " dated the 15th of *February*, wherein he prayed
 " that seven months time might be allowed to
 " make good the complaints, was laid before their
 " Lordships; as was also a Counter Petition from
 " *Sir Francis Bernard*, praying, for several rea-
 " sons therein set forth, That their Lordships
 " would proceed to determine the complaints on
 " the day on which they were appointed to be
 " peremptorily heard: And the parties on each
 " side attending (the Governor only with Counsel),
 " the

“ the Agent for the Complainants presented ano-
 “ ther Memorial to the Committee, wherein he de-
 “ clined proceeding upon the complaints, without
 “ having further time allowed him to procure the
 “ necessary proofs from his Constituents.—On
 “ which occasion the Lords of the Committee
 “ thought proper to put several questions to him,
 “ touching the steps he had taken to procure the
 “ necessary evidence in support of the charge;
 “ when it appeared, that, some time about the
 “ month of *August* last, he wrote to the Speaker of
 “ the House of Representatives of the Province of
 “ *Massachusetts Bay*, to send him over the several
 “ proofs and documents necessary to make good
 “ the complaints of the said House of Represen-
 “ tatives against the Governor, and had in several
 “ subsequent letters repeated the same, but had
 “ never received any answer at all from him rela-
 “ tive thereto; notwithstanding sundry letters had
 “ passed from the Speaker to him since that period,
 “ containing answers touching other matters, treated
 “ of in his aforesaid letters to the Speaker, and not-
 “ withstanding he was told, when the Petition of
 “ complaint was transmitted to him, in order to be
 “ presented to your Majesty, that the documents
 “ would soon follow, and he was ordered to pre-
 “ sent the said Petition to your Majesty immediately;
 “ and the Governor being also called upon by
 “ the Committee, to know what he had to urge in
 “ support

" support of his Petition against granting any fur-
 " ther time to the Agent for the Complainants,
 " he offered several reasons to shew that evidence
 " might have been transmitted to *England*, and
 " received by the Agent for the Complainants in
 " due time; and, among other things, he submitted
 " to their Lordships consideration the printed Jour-
 " nals of the House of Representatives, whereby it
 " appeared, that a former Petition to your Majesty,
 " to remove him the said Governor, had been
 " brought into the House of Representatives on
 " the 30th of *June* 1768; and that, after a debate,
 " the same had been re-committed, in order that
 " the Committee might bring in evidence in support
 " of divers articles alledged; and by the said
 " printed Journals, it further appeared, that the
 " next year, *videlicet*, on the 27th of *June* 1769,
 " the Petition of complaint against the Governor
 " (now under consideration of this Committee) was
 " brought into the House, and ordered to be pre-
 " sented to your Majesty; although it does not ap-
 " pear by the said Journals, that any evidence
 " was then produced in support of any of the Ar-
 " ticles of the said Petition; and lastly, the Agent
 " for the Complainants having declared to this
 " Committee, that he declined proceeding on the
 " business, now or at any future day, unless he
 " was allowed the time he applied for in his afore-
 " mentioned

" mentioned Petition of the 15th of *February*, and
 " as much more indefinitely at the expiration thereof
 " as might be necessary for him to receive instruc-
 " tions from his Constituents; the Lords of the
 " Committee considering that the Complainants
 " ought to have been prepared with evidence to
 " support their charges, at the time of presenting
 " the same, or within a reasonable time after, or
 " at least that they might have been sufficiently
 " prepared since their bringing into the House of
 " Representatives the former Petition to remove
 " the Governor in *June* 1768, and further, that
 " the House of Representatives having omitted to
 " send over to their Agent the documents necessary
 " to make good their complaints, although it ap-
 " pears, by the aforesaid printed Journals, that
 " the House continued sitting Eighteen Days after
 " the passing of the said Order of the 27th of *June*
 " 1769, could only be with a view to keep up a
 " spirit of clamour and discontent in the said Pro-
 " vince; and considering likewise, that several of
 " the said articles of complaint against the Gover-
 " nor could not be supposed to affect the Governor,
 " but are rather a charge against your Majesty's
 " Government.—Their Lordships therefore are
 " of opinion upon the whole, that the several
 " charges contained in the said Petition of the
 " House of Representatives of *Massachusetts Bay*,

"*groundless, vexatious, and scandalous*; and that
 "the said Petition ought to be dismissed."

His Majesty, taking the said Report into Consideration, was pleased, with the advice of his Privy Council, to approve thereof, and to order that the said Petition of the House of Representatives of the *Massachusetts Bay* be, and it is hereby, dismissed this Board, as *groundless, vexatious, and scandalous*.

W. BLAIR.



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